

**NOMINATIONS OF LOREN L. ALIKHAN,
HON. JOHN P. HOWARD III, AND
HON. ADRIENNE JENNINGS NOTI**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

NOMINATION OF LOREN L. ALIKHAN TO BE ASSOCIATE JUDGE,
DISTRICT OF COLUMBIA COURT OF APPEALS,
HON. JOHN P. HOWARD III, TO BE ASSOCIATE JUDGE,
DISTRICT OF COLUMBIA COURT OF APPEALS, AND
HON. ADRIENNE JENNINGS NOTI TO BE AN ASSOCIATE JUDGE,
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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**NOMINATIONS OF LOREN L. ALIKHAN,
HON. JOHN P. HOWARD III, AND
HON. ADRIENNE JENNINGS NOTI**

THURSDAY, DECEMBER 2, 2021

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:15 a.m., via Webex and in room SD-342, Dirksen Senate Office Building, Hon. Gary Peters, Chairman of the Committee, presiding.

Present: Senators Peters, Carper, Hassan, Sinema, Ossoff, Portman, Johnson, Lankford, Scott, and Hawley.

OPENING STATEMENT OF CHAIRMAN PETERS¹

Chairman PETERS. The Committee will come to order.

Today, we are considering three nominations: Loren L. AliKhan and John Howard III, to be Associate Judges on the District of Columbia Court of Appeals, and Adrienne Jennings Noti to be the Associate Judge on the Superior Court of the District of Columbia.

Welcome to each of you and to your friends and family members for joining you here today, congratulations on your nominations. We certainly want to thank you all for your prior service and for your willingness to take on these positions. They will be challenging positions and we appreciate your willingness to serve the community.

I am pleased that we have three very highly qualified nominees before us. Throughout the nomination process, this Committee has heard nothing but praise of your legal abilities and professionalism.

The D.C. Superior Court and the D.C. Court of Appeals function as the State-level trial and appellate courts within the very unique justice system here in the nation's capital. Both courts decide matters that impact the freedom, livelihoods, and safety of individuals and families across the District. Both courts are also suffering from extensive judicial vacancies.

The Superior Court is extremely understaffed with 14 vacancies among its 62 judgeships, and two additional Superior Court judges are retiring in December 2021 and January 2022.

According to the National Center for State Courts (NCSC), the D.C. Superior Court has one of the highest per capita numbers of cases filed, 83,000 new cases every year are filed across its five di-

¹The prepared statement of Senator Peters appear in the Appendix on page 21.

visions, and the vacancies have burdened every division, especially during this pandemic.

For the D.C. Court of Appeals, which has nine judicial seats, there are three vacancies and there will be a fourth vacancy upon an upcoming retirement.

These vacancies will result in delays in more than 200 cases every year, and a 50 percent increase in wait times within the last 5 years, leading to greater workloads for current judges and delaying the resolution for litigants.

I am pleased we have three nominees to these Courts here today, and I hope we will soon see several of these seats filled.

Again, thank you again for your willingness to serve and for being with us today. I look forward to hearing from each of you through the course of this hearing.

With that I would like to turn it over to Senator Lankford for his opening comments.

OPENING STATEMENT OF SENATOR LANKFORD¹

Senator LANKFORD. Thank you, Chairman Peters. To the nominees, thank you. It is not simple to be able to get to this process. For you and your families, walking through this journey and this examination is a decision that you had to make early when you accepted the offer to be able to even go through this process, so I appreciate you walking through this.

The Committee takes these nominations extremely seriously, as we should. The nomination process for D.C. judges is different from that of Article III judges and other Federal judges and demonstrates the unique Constitutional responsibility Congress has over the District of Columbia. Part of that responsibility, outlined in the Home Rule Act, is to ensure the District has well-qualified judges to serve in the city.

It is vital that the District has qualified, unbiased judges to serve in both the Superior Court and Court of Appeals. The city faces a number of serious issues, from crime rates to evictions to broader constitutional questions such as how the city treated houses of worship during the pandemic.

I look forward to discussing these issues with you today and to get a better sense of how you will approach the many difficult questions that will come before you if you are confirmed.

I thank the Committee for holding this hearing and look forward to speaking with each of you.

Chairman PETERS. Thank you, Senator Lankford.

It is the practice of this Committee to swear in witnesses, so if each of our witnesses will please stand and raise your right hand.

Do you swear that the testimony that you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. ALIKHAN. I do.

Judge HOWARD. I do.

Judge NOTI. I do.

Chairman PETERS. You may be seated.

¹The prepared statement of Senator Lankford appears in the Appendix on page 23.

Next we will have a video from Congresswoman Eleanor Holmes Norton to introduce our nominees.

OPENING STATEMENT OF THE HONORABLE ELEANOR HOLMES NORTON, A REPRESENTATIVE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. Holmes Norton, Chairman Peters and Ranking Member Portman, I appreciate the opportunity to introduce Loren AliKhan and Judge John Howard III to be Associate Judges of the District of Columbia Court of Appeals, and Judge Adrienne Jennings Noti to be an Associate Judge of the Superior Court of the District of Columbia. All three have the experience and credentials to be excellent judges. I especially appreciate that this hearing is being held so soon after the last hearing on D.C. judicial nominees.

Loren AliKhan currently serves as the Solicitor General for the District of Columbia. She has served in that role since February 2018, and prior to that served as the Deputy Solicitor General. Prior to work in the Solicitor General's Office, Ms. AliKhan was an attorney at O'Melveny and Myers. Ms. AliKhan also served as a Temple Bar scholar with the American Inns of Court Foundation and was a Bristow Fellow in the Office of the United States Solicitor General (OSG).

A magna cum laude graduate of the Georgetown University Law Center, and a summa cum laude graduate of Bard College at Simon's Rock. Ms. AliKhan clerked for Judge Lewis Pollak of the U.S. District Court for the Eastern District of Pennsylvania and for Judge Thomas Ambro of the U.S. Court of Appeals for the Third Circuit.

Judge John Howard III currently serves as an Administrative Law Judge for the District of Columbia Office of Administrative Hearings (OAH). He has served in that position since 2018, and prior to that position he was an Administrative Law Judge for the D.C. Commission on Human Rights. Prior to those positions, Judge Howard worked as an attorney for three law firms. Judge Howard is currently an adjunct professor at the Georgetown Law Center and he is a graduate of Georgetown Law and of Howard University.

Judge Adrienne Jennings Noti currently serves as a Magistrate Judge on the D.C. Superior Court, having served there since 2014. Judge Noti has served in four different divisions as a Magistrate Judge: the Family Court Division, the Civil Division, the Criminal Division, and the Domestic Violence Division.

Before her appointment as a Magistrate Judge, Judge Noti served as a special advisor to the Director of the Division of Program Innovation at the U.S. Department of Health and Human Services (HHS) Office of Child Support Enforcement (OCSE) and a senior program advisor there. She also served as the managing attorney for the D.C. bar's pro bono program and was a clinic practitioner in residence for 4 years at the American University Washington College of Law.

In addition to teaching at American University, Judge Noti was also a director and supervising attorney for the Domestic Violence Advocacy Project at the Rutgers School of Law and worked at the

Safe Horizon Domestic Violence Law Project and the Center for Reproductive Law and Policy.

A magna cum laude graduate of Georgetown University Law Center and a graduate of the University of North Carolina, Judge Noti served as a law clerk for Judge Carol Bagley Amon on the Eastern District of New York.

I appreciate the Committee moving these nominees and I look forward to continuing to work with you to end the vacancy crisis on the D.C. courts.

Chairman PETERS. Ms. AliKhan, you may now proceed with your opening comments.

**TESTIMONY OF LOREN L. ALIKHAN¹ TO BE ASSOCIATE JUDGE,
DISTRICT OF COLUMBIA COURT OF APPEALS**

Ms. ALIKHAN. Good morning, Chairman Peters, Ranking Member Portman, and Members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank you and your staff for holding this hearing, and I thank Congresswoman Eleanor Holmes Norton for her kind introduction. I also like to thank the District of Columbia Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, and, of course, I thank President Joseph Biden for nominating me.

I would like to take a moment to acknowledge a few important people in my life. First, I owe an enormous debt of gratitude to my husband, Justin Noble, for his patience, encouragement, and support of all my personal and professional endeavors. Next I thank my parents, Mahmood and Linda AliKhan, who instilled in me the values of hard work and public service; my sister, Leah AliKhan, who inspires me every day by living a rich and independent life as a woman with Down syndrome; and my extended family in St. Louis, Missouri; Daytona, Florida; and across the globe. Finally, I am grateful to my friends and colleagues for their steadfast support.

My father was born in British India and after independence and partition, he and his family made the arduous journey to what is now Pakistan. Just over 50 years ago, he made another journey, this time to the United States, where he settled in Baltimore. My father is a cardiologist who spent time in the United States Public Health Service (USPHS), and my mother was a nurse, so I learned from an early age that there is no higher calling than serving one's community. While it is the South Asian stereotype that one's children should grow up to be doctors, my family has supported, or at least tolerated, my decision to serve my community as a lawyer.

I currently serve as the Solicitor General for the District of Columbia, representing the district and over 50 administrative agencies before the local and Federal appellate courts. In my 8 years in the office I have worked on over 2,500 cases in the D.C. Court of Appeals involving issues including administrative law, contract disputes, criminal law, employment discrimination, family law, the Home Rule Act, torts, tax, workers' compensation, and zoning. If I

¹The prepared statement of Ms. Alikhan appears in the Appendix on page 24.

am fortunate enough to be confirmed, I would join the bench with a deep understanding of the Court's docket and could quickly contribute to the Court's pressing work.

Before joining the district government I had a broad-based appellate practice with both O'Melveny and Myers and the Office of the Solicitor General at the United States Department of Justice (DOJ). In both positions, I had extraordinary opportunities to work on civil, administrative, and criminal appeals in the United States Supreme Court and appellate courts around the country, and I also had the great fortune to begin my career as a law clerk to Judge Louis Pollak on the U.S. District Court for the Eastern District of Pennsylvania and Judge Thomas Ambro on the U.S. Court of Appeals for the Third Circuit. From watching their exemplary work as judicial officers I came to truly understand and appreciate what it means to have a judicial temperament. Win or lose, parties left both judges' courtrooms knowing that they had been heard, and the resulting opinions were written in a way that could be understood by counsel and pro se litigants alike.

It has been a privilege to serve the residents of the District of Columbia as its Solicitor General. With your advice and consent, I look forward to serving the district in a new role as an Associate Judge of the District of Columbia Court of Appeals.

Thank you again for the opportunity to appear before you today, and I look forward to your questions.

Chairman PETERS. Judge Howard, you may now proceed with your opening comments.

TESTIMONY OF THE HONORABLE JOHN P. HOWARD III¹ TO BE ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS

Judge HOWARD. Thank you. Good morning Mr. Chair, Ranking Member, and Members of the Committee. I am honored and deeply grateful for the opportunity to appear before you as you consider my nomination and I am thankful to you and your hard-working staff for holding this hearing. Thank you to Congresswoman Holmes Norton for her wonderful introduction.

I am thankful as well to the Judicial Nomination Commission (JNC) and its Chair, Judge Sullivan, for recommending me to the White House. I was extremely grateful to have been originally nominated last year and remain honored once again to be nominated for the second time this year. I am grateful to Chief Judge Anna Blackburne-Rigsby and the judges of the D.C. Court of Appeals for their time, encouragement, and guidance. It is humbling to be considered to be a potential colleague of the group of jurists that this Committee has assembled over the years.

I am cognizant that I have never made it anywhere on my own, and for nearly 16 years little would have been possible without my wife, Brandi Howard, who is present with us today, especially our greatest blessing, our 2-year-old son, Jack, whose infectious joy permeates our lives, and who is represented today by his uncles, Waymon Peer and Mark Miller, who is also his godfather, present with us here.

¹The prepared statement of Judge Howard appears in the Appendix on page 66.

Thank you to the judges I began my career under, Alexander Williams, Jr. and David C. Simmons. Thank you to my clerk family and my colleagues. I would also like to express gratitude for the love and support of my Georgetown Hoya family and my Howard family, both from Howard University and the colorful family that I was blessed to be born into.

Watching eagerly from his farm in Greer, South Carolina, I would like to thank and recognize my grandfather, Reverend Mickey Fisher. I would like to acknowledge my late grandmothers, Marilyn Fisher and Tala Howard, who loved me without limit. Finally, I would like to acknowledge my late father, Pete Howard. I was blessed to be raised by him. Dad taught in action and word, and a lesson he lived was to seek to command respect, not demand it, and that started with respecting everyone in front of you as equals in God's eyes and practicing kindness. I hope that my back will be half as broad as his in the eyes of my own son.

For over 7 years it has been my privilege to serve my fellow citizens as an administrative law judge on two local administrative courts, where I have presided over nearly 2,000 cases. I have worked to ensure that every party appearing before me can meaningfully participate in the adjudicative process and is heard, that the law is applied impartially, that my written decisions are clear, and that justice is provided in a timely fashion. At my current court this is no small task as our cases require written decisions and each judge is responsible for hundreds of decisions yearly, all appealable to the D.C. Court of Appeals.

Prior to becoming an administrative law judge, I was in private practice. I began my career as a judicial clerk and then joined the law firm of Akin, Gump, Strauss, Hauer & Feld LLP in its first class of Pro Bono Scholars. Following my wife's graduation from law school, we moved to Texas where I engaged in solo practice, before returning to the district.

If I am so blessed to receive your support and to be confirmed, I will remain committed to serving the residents of the District of Columbia. Thank you again for considering my nomination.

Chairman PETERS. Thank you. Judge Noti, you may now proceed with your opening remarks.

**TESTIMONY OF THE HONORABLE ADRIENNE JENNINGS NOTI¹
TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

Judge NOTI. Good morning, Chairman Peters, Ranking Member Portman, and Members of the Committee. I thank you for the opportunity to appear before you today and for considering my nomination to be an Associate Judge of the Superior Court of the District of Columbia.

I would like to thank all the members of the Judicial Nomination Commission and specifically its chair, the Honorable Emmet Sullivan, for recommending me to the White House, President Joseph Biden for nominating me, and to Congressman Eleanor Holmes Norton for her kind introduction.

¹The prepared statement of Judge Noti appears in the Appendix on page 102.

I also wish to recognize and thank D.C. Superior Court Chief Judge Anita Josey-Herring, former Chief Judge Robert Morin, and former Chief Judge Lee Satterfield, who appointed me as a Magistrate Judge in 2014. I would also like to thank my current Magistrate Judge and Associate Judge colleagues for all of their support, and I thank the committee staff for their work in preparing for this hearing.

Today I am pleased to be joined by my members of my family. My husband, Adav Noti, is here supporting me today, as he has done for every day of our marriage. We are joined by our children: our daughter Lila, who is 11, and our son Emmett, who is 9. Even though it entails wearing dress clothes, they are excited to be here, and not just because they get to miss school. I am also joined virtually by my mother, Carolyn Lockie, and I owe her for all that is good in me.

I am a proud native Washingtonian, and my children attend the same public elementary school and public middle school that I attended. My mother raised me all alone, while working full time, without any support, and making it look easy. She instilled in me the value of education, of hard work, of respecting others, and the strength of willpower.

As an adult, I now see that although she made being a single parent look easy, it most certainly was not. Her constant and ongoing sacrifices are a direct cause of my success. My whole family is a constant source of inspiration, support, and positivity, and I am grateful to them for all they do to allow me to grow and to serve the citizens of the district.

I am currently a Magistrate Judge in D.C. Superior Court where I have served since 2014. I have been honored to serve in every division of the court: Family, Criminal, Civil, Probate, and the Domestic Violence Divisions. I have presided over thousands of cases in our most high-volume courtrooms, rendered verdicts on over 100 bench trials, and explained my decisions to numerous pro se litigants. Throughout my time as a judicial officer I have cherished serving my city and playing a role in the fair and efficient administration of justice for district residents.

Prior to my appointment as a judicial officer, I served the Federal Office of Child Support Enforcement, where I worked to develop and implement Federal child support policy and led national child support initiatives to improve access to justice. Before that, as a Managing Attorney for the D.C. Bar Pro Bono Program, I arranged pro bono representation of family law matters in D.C. Superior Court.

And as a clinical law professor and director of legal clinics, first at Rutgers School of Law-Newark and then at American University's Washington College of Law, I taught students how to zealously represent people in crisis and supervised the representation of low-income clients in local courts. I also previously represented survivors of domestic violence and served as a Federal law clerk for the Honorable Carol Bagley Amon of the Eastern District of New York.

My first case ever was as a law student in a clinic at Georgetown University Law Center. There I had the opportunity to appear before the D.C. Superior Court. Since that first case, the D.C. Supe-

rior Court has become my second home. I am humbled by the opportunity, if confirmed, to be an Associate Judge in D.C. Superior Court and to continue to serve the district.

I look forward to answering any questions you have today. Thank you.

Chairman PETERS. Thank you. There are three questions that the Committee asks of every nominee, and I am going to ask each of you to respond with a simple yes or no. We will start with Judge Noti when I ask the question and then we will work down the dais there.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Judge NOTI. No, Senator.

Judge HOWARD. No, Senator.

Ms. ALIKHAN. No, Senator.

Chairman PETERS. Second, do you know of anything personal or otherwise that would in any way prevent you from faithfully and honorably discharging the responsibilities of the office to which you have been nominated?

Judge NOTI. No, Senator.

Judge HOWARD. No, Senator.

Ms. ALIKHAN. No, Senator.

Chairman PETERS. Last, do you agree, without reservation, to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Judge NOTI. Yes, Senator.

Judge HOWARD. Yes, Senator.

Ms. ALIKHAN. Yes, Senator.

Chairman PETERS. Thank you.

The first question will be to all three of you, and we will start with Ms. AliKhan this time and work the other way to mix it up a little bit. But the first question I have for all three of you, is the D.C. courts handle an extremely high volume of cases and vacancies on both the Superior Court and the Court of Appeals have contributed to significant backlogs of cases.

If confirmed, how will you manage your caseload efficiently while also ensuring that each person who comes before you has a meaningful opportunity to be heard?

Ms. AliKhan.

Ms. ALIKHAN. Thank you, Senator. If I were fortunate enough to be confirmed, I would run my chambers quite similarly to the way I run the current Office of the Solicitor General for the District of Columbia, where we have over 500 cases a year, many of them in the D.C. Court of Appeals. I would make sure that I would always be well-prepared by the time of argument, that I would have read the briefing, that I would have done independent research, and that I would have a framework for how I felt questioning should go. I would then, after argument, promptly circulate draft opinions and promptly provide feedback to my colleagues who were writing opinions on the panel.

I think by virtue of having a deep experience with district law and a number of years practicing before the D.C. Court of Appeals I would be able to get up to speed very quickly and dive into the

court's pressing work and contribute to cutting down on the backlog. Thank you.

Chairman PETERS. Thank you. Judge Howard.

Judge HOWARD. Thank you, Senator. In addition to what my colleague has stated and what I agree with, I would practice as I do now in my courtroom, and particularly when requests for continuance come in review those carefully and only grant them for truly important reasons when there is good cause for it, to keep the cases moving and to do that consistently so that attorneys know they must be prepared and they must move cases. Then use my experience at the Office of Administrative Hearings in a similarly high-volume docket, where I must write written decisions to conclude cases, to timely prepare my decisions much in the way that my co-nominee described, and to circulate drafts and to be responsive to my colleagues. Thank you.

Chairman PETERS. Thank you, Judge. Judge Noti.

Judge NOTI. Thank you. In the last 7 years as a Magistrate Judge I have heard over 50,000 cases, and the way I have been able to get through that high volume of cases is by being efficient, by asking key questions to get to the heart of the matter from the litigants, by calendaring cases efficiently, and setting and following scheduling orders, and by being a team player and working with the other colleagues on the court.

Chairman PETERS. Ms. AliKhan, you have served as an advocate for most of your career. If you could let the Committee know what challenges you may anticipate facing as you shift from your role as an advocate to the role of an impartial adjudicator, and how are you preparing for this transition, if you are confirmed?

Ms. ALIKHAN. Thank you, Senator. Yes, I have spent the bulk of my career as an advocate, and I recognize that the role of an advocate is quite different from the role of a neutral arbiter. As an advocate you zealously represent your client and you make the best arguments you can, consistent with the law and the state of the record.

As an adjudicator you need to have an open mind. You need to research the law thoroughly, you need to hear the parties' arguments, and then you need to consult with your colleagues to determine what the answer is and how it is dictated by the law.

I think I have had the opportunity to practice some of those skills in my role as Solicitor General, because as an institutional litigant we often have to take a fresh look on cases when they come up on appeal and weigh the consequences. Do we take this appeal? Do we wait for another one? Where does the law really fall on this?

I think I have had some experiences as Solicitor General that have prepared me. I also would draw upon the 2 years I spent clerking, where I learned from two Federal judges how to decide cases without regard to any personal preferences and just follow the law and see where it takes you. Thank you.

Chairman PETERS. Thank you. Ranking Member Portman has joined us via video. Ranking Member Portman, you are recognized for your questions.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman. I appreciate it. I was thinking that the Ranking Member today, who is James Lankford, would go first, so I will be very brief, to allow Senator Lankford to have an opportunity to speak.

I have appreciated the testimony this morning, and I have looked at the background of all three of our candidates. They have good experience, both in law, in the nonprofit sector in one case, and all of you contribute to your community in various ways, and I appreciate that.

One of the things that was raised in our previous hearings with other judges is the issue of safety and violence in the District of Columbia, the increase in crime, and the role that these courts play. Mayor Bowser, as you know perhaps, made a comment that she thought that the backlog was creating a safety issue for the District of Columbia, and expressed some concerns about, again, the amount of criminal activity and the increase, really at an alarming rate.

I would like all three of you to address that if you would, understanding that every part of our government plays a role and that the courts are not going to play the singular role, the only role here, but an important role in ensuring that justice is done and that criminals are prosecuted properly to try to act as a deterrent to crime.

So could you speak to the issue of crime in the District of Columbia and what your intent would be, should you be confirmed?

Ms. ALIKHAN. Thank you, Senator. I agree that crime is a problem in the district. As a long-time district resident any crime is unacceptable. As a judge, I think the role is to take the cases that come before you, but one way in which I think, if I was fortunate enough to be confirmed, that I could assist is by quickly resolving criminal cases.

While there are Speedy Trial Act concerns that come into play when things are in trial court, there is no set timeframe for deciding criminal appeals. I would make it a priority to swiftly handle those cases, because that brings closure and finality to the victim, it provides certainty to the public that public safety is being protected, and so I think it would be very important to prioritize those cases.

Senator PORTMAN. I appreciate that response, and that also goes to the issue of the backlog, over 10,000 cases as I understand. So the expedited reviews are really important.

Other thoughts from the other two candidates?

Judge HOWARD. Thank you, Senator. I agree completely, and as a father, resident, homeowner in the district with my family, no amount of crime is acceptable.

In addressing the crime I would work diligently, as I do at my current court, to move those cases and attack the backlog. I think that is the biggest thing we can do.

The D.C. Court of Appeals has been without a full complement of judges for at least 8 years now, and at this time has less than half of the senior judges assisting the active judges that they had at the time of the oldest vacancy. I think, if I am so blessed to be confirmed, I can take my skills managing a high-pressure and

high-volume docket and ability to come up to speed quickly on the law and contribute in clearing that backlog and speedily processing criminal cases. Thank you.

Senator PORTMAN. Thank you.

Judge NOTI. Thank you, Senator Portman, for your question. I agree with my fellow nominees and I want to address more of your backlog question. When I was assigned to the Family Division in January 2020, the pandemic hit in March and we shut down our courtrooms. By May 2020, I had my first virtual trial, and by August had a full virtual courtroom, and by October 2020, had cleared entirely the backlog in my caseload, through collaborating with the other judges and by being efficient and scheduling tightly.

I think that I can bring those skills to the position of an Associate Judge, if fortunate enough to be confirmed.

Senator PORTMAN. Thank you, Ms. Noti. Those skills will be needed, and I appreciate again all of you being here. I am going to ask that any additional questions I have are entered for the record, to be able to get to the other members, including Senator Lankford. Senator Lankford, thank you for being the Ranking Member today. In your Subcommittee role it is appropriate, in my view, and I hope we can move expeditiously ourselves.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Portman, and Ranking Member Lankford is continuing to defer to other Members who wish to ask questions.

Senator Carper, you are now recognized for your questions.

[Pause.]

We see you, Senator Carper.

Senator CARPER. Yes.

Chairman PETERS. We hear you as well.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Great. Thank you.

When I was privileged to serve as the Governor of Delaware for 8 years it was my responsibility to nominate individuals to serve on Delaware's very highly regarded Supreme Court and our Court of Chancery. In considering potential candidates I looked for a number of attributes, and my guess is our colleagues do as well. One of them was sound moral character, complete willingness to listen to both sides of an argument, judicial temperament, and the ability to make difficult decisions with sound reasoning.

Ms.—I want to make sure I am pronouncing your name right—AliKhan. Is that right?

Ms. ALIKHAN. Yes, Senator. AliKhan.

Senator CARPER. Very good. Thank you. Judge Howard and Judge Noti—is it Noti?

Judge NOTI. Noti. Yes, Senator.

Senator CARPER. OK. Thank you all for being with us today. Thank you for your interest in serving in these roles.

Could you each take a minute apiece to simply discuss the importance of having these attributes as a judge, the ones that I have just mentioned, and how would you bring them to bear in the District of Columbia Superior Court and the Court of Appeals, if you are confirmed?

One at a time, please. Ms. AliKhan?

Ms. ALIKHAN. Thank you, Senator. I believe those attributes are essential to being a successful judge. I think it is important to recognize that while for a judge the courtroom is a home away from home, for many litigants it is their only interaction with the judicial system. It is very important to make sure litigants know that they are heard and that they are respected and that regardless of the outcome of the case they have had the ability to present their views.

Now, of course, judging involves making difficult decisions. The law will take you in directions that are going to hurt one party or another. I think the judge's duty in that circumstance is to clearly and concisely explain the rationale for why the law dictates a particular result. Thank you.

Senator CARPER. Yes, thank you for that response. Judge Howard, please, same question.

Judge HOWARD. Thank you, Senator. Judges have an ethical duty to model those traits that you described. The canons of judicial ethics require judges to behave in a manner that brings respect and dignity to the court and enhances the faith that people have in the court and in our decisions.

As a judge, the appearance of impropriety on its own, not actual impropriety, is enough to have a violation of our ethics. In my practice as a judge for over 7 years, and as an administrative law judge, where we have the additional duty to complete the record and where we often hear from people who do not have the representation of attorneys, it has been our duty to model those traits and to make sure that individuals cannot only meaningfully participate but that they know they are heard. Part of that is in addressing their arguments and getting timely justice out to them.

Senator CARPER. Thank you.

Judge NOTI. Thank you for your question, Senator. Being neutral and fair really is the heart of what judges do, and having an appropriate demeanor is also crucial to public confidence in the administration of justice. I would, if I were fortunate enough to be confirmed, continue to use the judicial skills I have gained so far as a Magistrate Judge. Thank you.

Senator CARPER. Good. Thank you for those responses.

My next question is in each of your opening statements, all three of you mentioned that you worked on, thousands of cases throughout your career working in the District of Columbia's courts. Meanwhile, the average time between vacancy and confirmation for the last five judicial nominees to the D.C. Superior Court, I think it is nearly 3 years, and for the Court of Appeals I think the average vacancy lasts over a year.

Could each of you take a moment to explain how these long-standing judicial vacancies affect the ability of D.C. courts to function and process cases in a timely manner? I would also ask if you could maybe provide an example of how these vacancies have affected your work in your current jobs. Go ahead.

Ms. Noti, would you go first?

Judge NOTI. Thank you, Senator. One of the ways in which the vacancies have affected daily life of the court is that Magistrate Judges have taken on even more responsibilities. And so I have

been fortunate, over the last 7 years, to take on more complicated issues, and that has been a key part of the way that the courts have tried to overcome some of the challenges of the vacancies.

Senator CARPER. Thank you. Judge Howard, same question.

Judge HOWARD. Thank you, Senator. The Court of Appeals vacancies have affected the court in its speed of processing and its backlog, not only with the vacancies with active judges but unlike many other courts of final appeal, the D.C. Court of Appeals has senior judges as well who are former active judges who take on an active role and utilize their expertise to help the court.

The oldest vacancy that is outstanding for the D.C. Court of Appeals, as I stated earlier, is 8 years old, and at that time, when that vacancy came open there were a little over twice as many senior judges as there are today.

In terms of how it has affected my work at the D.C. Office of Administrative Hearings, we are an incredibly high-volume court and many appeals come from our court, and the guidance from those appeals that we weight on is what would be helpful in processing many more cases that are coming up all the time and with new law developing out of the court.

Senator CARPER. Thank you. Ms. AliKhan.

Ms. ALIKHAN. My practice has been primarily before the D.C. Court of Appeals for the past 8 years, and in those 8 years there has never been a full complement of active judges on the D.C. Court of Appeals.

Senator CARPER. Never? Did you say never, in 8 years?

Ms. ALIKHAN. Never. In the 8 years that I have been practicing in the Office of the Solicitor General there has been at least one vacancy, because the vacancy from Judge Oberly was created in 2013, and since then we now have two more vacancies and we have a fourth on the way.

Where this affects me and my practice, and district residents, frankly, is it delays decisionmaking, because the D.C. Court of Appeals is one of the highest-volume appellate courts in the country, and it has essentially been functioning with one hand tied behind its back. And so I have had cases, expedited cases even, cases that are required to be decided in an expeditious manner by statute, that sometimes take 2 or even 3 years between argument and decision, and that is simply because there is just not enough time for the judges to address the thousands of cases that come before them when they have vacancies and they do not have as many senior judges, as my co-nominee mentioned, as they used to. Thank you.

Senator CARPER. Let me say to my colleagues—thank you all for your responses—I think it is atrocious that we have vacancies 2, 3, or 4 years, and longer in these courts. We are not the solution here. We are part of the problem. The other part of the problem is that the District of Columbia, they do not have the ability to select and confirm their own judges. We need to change that, and we can change that, and I hope you will change that. Thank you.

Chairman PETERS. Thank you, Senator Carper. Ranking Member Lankford, you are recognized for your questions.

Senator LANKFORD. Good. Thank you very much. Thanks to all of you again for going through this process. I want to ask a question similar to what you have been asked before, dealing with the

backlog, but this one is particular to how you handle attorneys that are coming in front of you that perpetually ask for a delay, an extension, they need more time to be able to gather more facts and information.

How do you handle making sure that the people in front of you actually get justice and not just have an attorney that is just delaying and did not spend the prep time? All of you described your prep time. What I want to know is how are you holding attorneys to account to make sure they are prepared to actually bring justice to the clients they work with?

Judge Noti, let me start with you first.

Judge NOTI. Thank you for your question, Senator. It really starts with setting the expectations in the courtroom of what is to be expected by those that appear before you. I cannot remember the last time I granted a request for continuance, and so people stop asking for them. As you mentioned, coming to court prepared and ready to hear the cases before you is the key way that we can avoid delayed justice.

Senator LANKFORD. Terrific.

Judge HOWARD. Thank you, Senator. I agree with my co-nominee, and it has been my practice, and I alluded to it earlier, to only grant continuances in cases of true necessity. I have found, in over 7 years as a judge, that while attorneys are incredibly busy, they rise to meet the standard if it is set consistently and they know what to expect.

Senator LANKFORD. OK. Ms. AliKhan.

Ms. ALIKHAN. Thank you, Senator. Under the District of Columbia Court of Appeals rules extensions should only be granted for good cause. If I were on a motions panel I would make sure that extensions were only granted when good cause had been shown. I also would want to make sure that appointed counsel—because there are counsel that are appointed in a lot of civil cases, sometimes go through a process where they get appointed, they withdraw, and new counsel gets appointed—they need time, that we do what we can on the administrative side of the court to make sure that those appointments, that they stick, first of all, and that those counsel who are appointed are going to follow through with the cases and not seek lengthy extensions.

Senator LANKFORD. OK. Ms. AliKhan, you have been solicitor already for quite a while there and you have seen a lot of things come and go and dealt with a lot of things in the Mayor's Office and all that is happening in the courts. What do you see as the most significant issue that D.C. is facing right now in the courts? I am fully aware of the backlog and trying to get fully staffed. Beyond that, what are the significant issues that judges can address in this role, to be able to help D.C.?

Ms. ALIKHAN. Thank you, Senator. I do think the backlog is the biggest problem. When you are seeing a 5-year delay from when an appeal is filed until when an opinion comes down, that causes the public to lose confidence and it also harms litigants. Especially when we are dealing with cases involving child custody, abuse or neglect, criminal cases, there needs to be swift justice. I think that is the first, second, third, and fourth biggest problem facing the dis-

trict, and as a nominee, if I were confirmed, I would hope to be able to swiftly dive into the court's work.

Senator LANKFORD. OK. Mr. Howard, how would you answer that?

Judge HOWARD. I agree with my co-nominee and if I can be selfish and lean into my background a little bit, as an administrative law judge I have come across 2,000 cases, where it has been a case of first impression and I wished that I had had some guidance. There are obviously cases that are priority over these, such as the criminal cases in the backlog that we need to clear, but having a full complement of judges and clearing the backlog will give us the court time to address issues that may be further on the back burner.

Senator LANKFORD. OK. Judge Noti, I am not going to give you that simple question. I want to ask you a different one. How do you handle being the presiding judge of the Family Treatment Court (FTC)? I cannot imagine a more emotional court than what you have handled in the caseload, in 50,000 cases that you handled as a Magistrate, looking at your own two beautiful children. I am not supposed to call Emmett beautiful—hey, good-looking guy. Sorry.

So as I look at your two kids sitting behind you I cannot imagine what it was like in the caseload that you have handled. How do you manage that kind of caseload, and if you were to transition to a full-on judge where would you put that in the days ahead?

Judge NOTI. Thank you for your question and your kind words. I love being a Magistrate Judge, and it is intense and hard work, and presiding over the Family Treatment Court is a great joy. I get to see families working really hard to reunify. My role there, although it is intense, is really to continue to apply the facts to the law. In the abuse and neglect context I am looking at serious issues regarding families, whether it is termination of parental rights or contested adoptions, and it brings me great joy. I think working with that population will serve me well as an Associate Judge, because it is really the same people and the same litigants, with different types of legal issues.

Senator LANKFORD. Yes. Very difficult caseload on that, and very emotional caseload to be able to deal with all the different family issues.

Ms. AliKhan, as a solicitor obviously D.C. deals with a lot of hard issues. There was a hard issue that came up last year that myself and several others were surprised at the way D.C. handled the issue of religious liberty, and specifically the accommodation for houses of worship during the pandemic time period, where houses of worship were limited to 100, but if you were at the farmer's market outside there was not a limitation for you. But if you are church meeting outside there was a limitation. There was a lot of push and pull in the conversation.

I am not going to ask you private conversations for what you had with leadership during that time period, but this issue of religious liberty is really big one. As you know, Religious Freedom Restoration Act (RFRA) has a balancing test that the government is only involved if it absolutely has to, and it has to be able to honor that.

My question for you really circles around how you are going to deal with this compelling governmental interest and to be able to

balance this out, because you are going to deal with a lot of issues, and one of them may come up pretty quickly, on a vaccine mandate to an individual, and someone says they have a religious accommodation request. How do you evaluate religious accommodation requests and a balance of that for those individuals on this type of issue and religious liberty?

Ms. ALIKHAN. Thank you, Senator. I take religious liberty very seriously, and as a covered entity under RFRA the District of Columbia does have to show a compelling government interest and show that it is narrowly tailored if even a neutral law is going to substantially burden another's religion. That is a standard that I would faithfully apply if I were to be confirmed.

You mentioned the Mayor's orders. I want to note that the Mayor and the Attorney General are independently elected, and so the Mayor's orders come from the Mayor's Office of Legal Counsel (MOLC). Obviously, in my position as Solicitor General, I represent the Mayor as a client, but I myself was not involved in the creation of any of those orders. Thank you.

Senator LANKFORD. OK. Thank you.

Mr. Howard, I cannot imagine how much fun it is to have the last name of Howard and attending Howard University. I hope you used that time period well, to be able to have some extra swing on campus. You also have the unique position of being one of the few people on the planet that both Joe Biden and Donald Trump agree on, that you have been nominated by both to be able to come to this position, which also means you have been in the queue a very long time.

You have had a lot of time to be able to think about this. I appreciate your longevity to be able to walk through a very difficult, long process in this. I do not have a particular question with that, but I want to be able to say to you specifically, thanks for a very long wait in that process.

Judge HOWARD. Thank you, sir.

Senator LANKFORD. Thank you. Mr. Chairman, I yield.

Chairman PETERS. Thank you, Ranking Member Lankford. Senator Hawley, you are recognized for your questions.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you very much, Mr. Chairman, and thanks to the nominees for being here. Congratulations on your respective nominations.

Ms. AliKhan, if I could start with you, I want to pick up where Senator Lankford left off just a moment ago and ask you about these lockdown orders that the District of Columbia held were unlawful. Just to follow up on something, did you have any role in the policy of these lockdown orders in terms of creating the lockdown orders?

Ms. ALIKHAN. Thank you, Senator. No, I did not. The Mayor's Office of Legal Counsel passed those orders.

Senator HAWLEY. OK. Did you have any role in the litigation? I see that you were not formally listed on the briefs but I just want to be sure. Were you involved in the litigation in any way?

Ms. ALIKHAN. Yes, as with all high-profile litigation I was aware of it and I was involved, and as Solicitor General I make a decision

of whether or not to take affirmative appeals from adverse decisions, and I think it is a matter of public record and not betraying any client confidences to say that the District did not appeal the preliminary injunctions in the Capitol Hill Baptist case and the companion Archdiocese case.

Senator HAWLEY. Do you agree with the Federal District Court's conclusion in that case, that the restrictions violated the free exercise of religion?

Ms. ALIKHAN. In light of ethical duties to my clients I do not think I can comment on whether the District Court's opinion, in my view, was correct or not. I can say, as a matter of public record, the District of Columbia did not appeal those preliminary injunctions.

Senator HAWLEY. The U.S. Supreme Court, similarly struck down restrictive lockdown measures by New York and California in separate cases. Let me ask you this. What do you understand to be the current framework, doctrinally, for evaluating claims of religious discrimination?

Ms. ALIKHAN. Sure. Senator, I think it depends. If you are in the RFRA context and a neutral law that substantially burdens religion will be subject to strict scrutiny and has to satisfy a compelling government interest and be narrowly tailored to that effect. Outside of the RFRA context, in the cases like Tandon and others that the Supreme Court was considering, they were applying the tests set forth in *Lukumi*, which is that even a facially neutral law can have a burden on religion, and if so then strict scrutiny is triggered.

I think what we learned from Tandon and the other cases, which were the first time the Court was able to address the question of how Coronavirus Disease 2019 (COVID-19) regulations interacted with religious liberty, was that if any secular activity is treated more fairly than a religious activity that that raises the bar and strict scrutiny applies.

Senator HAWLEY. Let me come back to the District of Columbia case. Given what the District Court found there and its holding, and given what the United States Supreme Court has found in the Brooklyn Diocese case and the South Bay United Pentecostal case, and others, what is your—let me put it to you this way. I mean, do you regard this issue now as settled, these cases as controlling, and are you prepared to follow this as a precedent-established case law?

Ms. ALIKHAN. Thank you, Senator. With the caveat that in the district RFRA applies, I think yes, the standard has been set—

Senator HAWLEY. Which ought to heighten the protections.

Ms. ALIKHAN. Yes, which has heightened protections. But I fully understand that the *Lukumi* text, which has been reaffirmed time and again, from *Fulton*, and then was applied in the context of COVID-19, and Tandon and other cases, absolutely is the framework. It has been the framework and it is one that I would faithfully apply if I were presented with such a question, if I were fortunate enough to be confirmed.

Senator HAWLEY. I appreciate that answer. I have been in the position, or akin to the position that you hold now. I was the Attorney General (AG) of my State, so I understand that sometimes, and

similarly in my State, I was independently elected, and so the Governor and other officers in the State were my clients and, you do not pass the laws. You defend the laws. That is your job. In fact, you never get to choose what the laws are. You defend them. I understand the position that you were in as it regards to your client, and so fair enough.

I do want to say, for the record, in light of the Capitol Hill case, the Capitol Baptist case, and the District Court's opinion there, I think that what the district attempted to do was very wrong. It was contrary to law, I think that it was unjust, and the District Court's opinion, which I have read a number of times now, is very unequivocal. It is very strong language. The idea that you would single out people of faith and say that they cannot even meet outdoors if they are masked and they limit their gatherings but yet other secular, non-religious groups and entities can do that, that is hugely problematic.

So it sounds to me like you appreciate that because you have recognized the case law that is controlling on this now, and as we have now discussed, and I think established that U.S. Supreme Court has weighed in on this. But I cannot let this issue pass without noting that and saying again how deeply troublesome I find it. Again, I do not blame you or your office for defending the law. You are supposed to do that. I am glad that you did not take an appeal. I think that was the right decision. Hopefully that speaks well about your evaluation of the case.

Let me ask you about something different. You were counsel of record, I believe, for an amicus brief on behalf of the District of Columbia and 17 States in the Brnovich case. Do you remember this case? It was in support of the Democratic National Committee (DNC), their position in the Brnovich case.

Ms. ALIKHAN. Yes, Senator.

Senator HAWLEY. So that caught my attention because usually—I mean, that case was about Arizona's interest as a State in regulating its own elections, and typically States support other States—D.C. is not a State, but D.C. as an entity, as its own independent entity, often it stands with other States in supporting federalism concerns. You did not do that here.

I just am curious as to why you felt it was important to lead this effort on behalf of the DNC and the DNC's position, which the Supreme Court rejected. The Court did not agree with your position in the Brnovich case. But just walk me through why you felt it was important to weigh in here against federalism and in favor of uniformed Federal standards that the Supreme Court ultimately rejected.

Ms. ALIKHAN. Thank you, Senator. The district wanted to provide the experience of States to show that while elections are a matter of State concern, Section 2 of the Voting Rights Act does not impose a substantial burden on them. We were writing a brief from experience, as many States do, to provide context to the Supreme Court of how a particular law plays out on the ground.

The factors that we focused on in the Supreme Court were that it is a fact-specific, context-specific, evidence-specific totality of the circumstances inquiry and ultimately the Supreme Court did not rule in favor of the party we were supporting but they endorsed,

in the majority opinion, the totality of the circumstances test. I see the amicus brief we filed as being consistent with the ultimate holding of the case.

Senator HAWLEY. My time has just about expired, but can I just ask you, do you think voter ID requirements are illegal?

Ms. ALIKHAN. I have not had occasion to consider that question in my 15 years of appellate practice.

Senator HAWLEY. You do not have any opinion on it at all? It has been much litigated. It was at issue, in part, in the Brnovich case.

Ms. ALIKHAN. No, Senator, I do not.

Senator HAWLEY. Do you think it is unreasonable for States and counties to require a form of voter identification (ID) in order to vote?

Ms. ALIKHAN. Senator, I would not want to give the impression that I had prejudged any issue, were I fortunate enough to be confirmed, and I can assure you that my personal beliefs have never come into play when I am considering the advocacy positions of my client or if I were to consider any law that were to come before me.

Senator HAWLEY. If that is the case shouldn't the answer be real easy? Shouldn't the answer be that there are absolutely not illegal, given the Crawford case?

Ms. ALIKHAN. Senator, the answer would be that if presented with such a case I would review the law, including Crawford, and I would apply it faithfully.

Senator HAWLEY. So you recognize Crawford as good law and controlling?

Ms. ALIKHAN. Yes, I do.

Senator HAWLEY. OK. I might have some more questions for you on that. I am sorry, Mr. Howard and Ms. Noti, that I did not get to you. You probably are not sorry. But congratulations also on your nominations. I will have some questions for you for the record.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Hawley.

The nominees have filed responses to biographical and financial questionnaires.¹ Without objection, this information will be made part of the hearing record,² with the exception of the financial data which is on file and available for public inspection in the Committee offices.³

The hearing record will remain open until 12 p.m. tomorrow, December 3, for the submission of statements and questions for the record.

This hearing is now adjourned.

[Whereupon, at 11:10 a.m., the hearing was adjourned.]

¹ The information for Ms. AliKhan appears in the Appendix on page 26.

² The information for Judge Howard appears in the Appendix on page 67.

³ The information for Judge Noti appears in the Appendix on page 104.

A P P E N D I X

**Chairman Peters Opening Statement As Prepared for Delivery
Full Committee Hearing: Nominations of Loren L. AliKhan and John P. Howard III to be
Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be
an Associate Judge, Superior Court of the District of Columbia**

December 2, 2021

Today, we are considering three nominations:

Loren L. AliKhan and John P. Howard III, to be Associate Judges on the District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge on the Superior Court of the District of Columbia.

Welcome to each of you and to your friends and family members for joining us today. Congratulations on your nominations, and thank you all for your previous service and for your willingness to take on these important new roles.

I am pleased that we have three highly-qualified nominees before us today. Throughout the nomination process, this Committee has heard nothing but praise for your legal abilities and professionalism.

The D.C. Superior Court and the D.C. Court of Appeals function as the state-level trial and appellate courts within the unique justice system here in the nation's capital. Both courts decide matters that impact the freedom, livelihoods, and safety of individuals and families across the District. Both courts are also suffering from extensive judicial vacancies.

The Superior Court is extremely understaffed with 14 vacancies among the court's 62 judgeships, and two additional Superior Court judges are retiring in December 2021 and January 2022.

According to the National Center for State Courts, the D.C. Superior Court has one of the highest per capita numbers of cases filed, 83,000 new cases every year are filed across its five divisions. The vacancies have burdened every division, especially during the pandemic.

For the D.C. Court of Appeals, which has nine judicial seats, there are three vacancies and there will be a fourth vacancy upon an upcoming retirement.

These vacancies result in delays in more than 200 cases every year, and a 50% increase in wait times within the last five years, leading to greater workloads for current judges and delayed resolutions for litigants.

I am pleased we have three nominees to these Courts here today, and I hope we will soon see several of these seats filled.

Thank you again for your willingness to serve and for being with us today. I look forward to hearing from each of the nominees.

**Opening Statement of Ranking Member Lankford
Nominations Hearing – December 2, 2021**

Thank you, Chairman Peters.

Thank you to the nominees for appearing before us today. It is a long process to get to this spot. You did not do this alone, your family walked with you through this process and we appreciate you all going through this.

The committee takes these judicial nominations very seriously. The nomination process for DC judges is different from that of Article III and other federal judges and demonstrates the unique Constitutional responsibility Congress has over the District of Columbia. Part of that responsibility, as outlined in the Home Rule Act, is to ensure the District has well qualified judges to serve the city.

It is vital that the District has qualified, unbiased judges to serve in both the Superior Court and Court of Appeals. The city faces a number of serious issues, from crime rates to evictions to broader constitutional questions such as how the city treated houses of worship during the pandemic.

I look forward to discussing these issues with you today and get a better sense of how you will approach the many difficult questions that will come before you if you are confirmed.

I think the committee for holding this hearing and look forward to speaking with each of you.

Opening Statement of Loren L. AliKhan
Nominee to be an Associate Judge of the District of Columbia Court of Appeals

Good morning, Chairman Peters, Ranking Member Portman, and members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank you and your staff for holding this hearing. I also wish to thank the District of Columbia Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, and, of course, I thank President Joseph Biden for nominating me.

I would like to take a moment to acknowledge a few important people in my life. First, I owe an enormous debt of gratitude to my husband, Justin Noble, for his patience, encouragement, and support of all my personal and professional endeavors. Next, I thank my parents, Mahmood and Linda AliKhan, who instilled in me the values of hard work and public service; my sister, Leah AliKhan, who inspires me every day by living a rich and independent life as a woman with Down Syndrome; and my extended family in St. Louis, Missouri, Daytona, Florida, and across the globe. Finally, I am grateful to my friends and colleagues for their steadfast support.

My father was born in British India and, after independence and partition, he and his family made the arduous journey to what is now Pakistan. Just over fifty years ago, he undertook another journey—this time to the United States—where he settled in Baltimore. My father is a cardiologist who spent time in the United States Public Health Service, and my mother was a nurse, so I learned from an early age that there is no higher calling than serving one's community. And while it is the South Asian stereotype that one's children should grow up to be doctors, my family has supported—or at least tolerated—my decision to serve my community as a lawyer.

I currently serve as the Solicitor General of the District of Columbia, representing the District and over 50 administrative agencies before the local and federal appellate courts. In my eight years in the office, I have worked on over 2,500 cases in the District of Columbia Court of Appeals involving issues including administrative law, contract disputes, criminal law, employment discrimination, family law, the Home Rule Act, torts, tax, workers' compensation, and zoning. If I am fortunate enough to be confirmed, I would join the bench with a deep understanding of the Court's docket and could quickly contribute to the Court's pressing work.

Before joining the District government, I had a broad-based appellate practice with both O'Melveny and Myers and the Office of the Solicitor General at the United States Department of Justice. In both positions, I had extraordinary opportunities to work on civil, administrative, and criminal appeals in the United States Supreme Court and appellate courts around the country. I also had the great fortune to begin my legal career as a law clerk to Judge Louis Pollak on the U.S. District Court for the Eastern District of Pennsylvania and Judge Thomas Ambro on the U.S. Court of Appeals for the Third Circuit. From watching their exemplary work as judicial officers, I came to truly understand and appreciate what it means to have a judicial temperament. Win or lose, parties left both judges' courtrooms knowing that they had been heard, and the resulting opinions were written in a way that could be understood by counsel and pro se litigants alike.

* * *

It has been a privilege to serve the residents of the District of Columbia as its Solicitor General. With your advice and consent, I very much look forward to serving the District in a new role as an Associate Judge of the District of Columbia Court of Appeals.

Thank you again for the opportunity to appear before you today. I look forward to your questions.

REDACTED

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. **Full name (include any former names used).**

Loren Linn AliKhan

2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a citizen of the United States of America.

3. **Current office address and telephone number.**

Office of the Attorney General for the District of Columbia
400 Sixth Street, NW, Suite 8100
Washington, D.C. 20001
(202) 727-6287

4. **Date and place of birth.**

June 24, 1983; Baltimore County, Maryland, USA.

5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am married to Justin Andrew Noble. He is the Director of Contracts at Areté Associates, Inc. The company's address is: 1550 Crystal Drive, Suite 703, Arlington, VA 22202.

6. **Names and ages of children. List occupation and employer's name if appropriate.**

None.

7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

Georgetown University Law Center, 2003 – 2006; J.D., *magna cum laude*, awarded May 2006.

Bard College at Simon's Rock, 1999 – 2003; B.A., *summa cum laude*, awarded May 2003; A.A., with distinction, awarded May 2001.

London School of Economics, 2002; no degree awarded.

University of Massachusetts, Amherst, 2002; no degree awarded.

Bryn Mawr School for Girls, 1997 – 1999; General Educational Development Diploma awarded in 2000.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

Summer 2006
Arnold & Porter LLP
601 Massachusetts Avenue, NW
Washington, D.C. 20001
Summer Associate

August 2005 – April 2006
Gebhardt & Associates LLP (now defunct)
1101 17th Street, NW
Washington, D.C. 20036
Law Clerk

Summer 2005
Williams & Connolly LLP
725 12th Street, NW
Washington, D.C. 20005
Summer Associate

May 2004 – May 2006
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, D.C. 20001
Research Assistant to Professor Charles R. Lawrence, III (now Professor of Law Emeritus at the University of Hawai'i William S. Richardson School of Law)

Summer 2004
People's Law Resource Center (now defunct)
1725 I Street, NW, Suite 300
Washington, D.C. 20006
Law Clerk

June 2002 – July 2003
 Baba Louie's Organic Sourdough Pizza
 42 Railroad Street
 Great Barrington, MA 01230
 Server

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

Senior Staff of the Year Award, National Association of Attorneys General (2020)

Natalie Ludaway Award, D.C. Office of the Attorney General (2020)

Public Sector Trailblazer Award, South Asian Bar Association of Washington, D.C. (2019)

Tamar A. Meekins Head of Division Award, D.C. Office of the Attorney General (2018)

Distinguished Service Award (Supervisory), D.C. Office of the Attorney General (2016)

Bisnow, "Top 40 Under 40 Attorneys" List (2015)

National Law Journal, "D.C.'s Rising Stars" List (2014)

Super Lawyers, "Rising Star" List for Appellate Litigation (2013)

Forbes Magazine, "30 Under 30" List for Law and Policy (2012)

Temple Bar Scholarship, American Inns of Court Foundation (2009)

J.D. from Georgetown University Law Center conferred *magna cum laude* (2006)

Order of the Coif (2006)

ALI/ABA Scholarship and Leadership Award, Georgetown University Law Center (2006)

Dean's Certificate for Special and Outstanding Service to the Law Center Community, Georgetown University Law Center (2006)

B.A. from Bard College at Simon's Rock conferred *summa cum laude* (2003)

Social Studies Divisional Prize, Bard College at Simon's Rock (2003)

Thomas H. Blodgett Scholarship, Bard College at Simon's Rock (2002)

Robert M. Hutchins B.A. Scholarship, Bard College at Simon's Rock (2001)

A.A. from Bard College at Simon's Rock conferred with distinction (2001)

Social Studies Divisional Prize, Bard College at Simon's Rock (2001)

Faculty Merit Award, Bard College at Simon's Rock (2000)

Acceleration to Excellence Scholarship, Bard College at Simon's Rock (1999)

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

American Inns of Court Foundation
Board Member (2020 – present)

Bard College at Simon's Rock Board of Overseers
Board Member (2006 – present)

Lawyers' Club of Washington
Board Member (2019 – present)

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

American Inns of Court Foundation (2009; 2015 – present)
Board Member (2020 – present)
Temple Bar Scholarship Selection Committee (2015 – present)
Temple Bar Scholar (2009)

American Law Institute (2016 – present)

The Appellate Project (2020 – present)
Mentee Selection Committee (2021)

D.C. Bar, D.C. Cup Moot Court Judge (2016, 2018, 2020, 2021)

Edward Coke Appellate Inn of Court (2010 – present)

Lawyers' Club of Washington (2016 – present)
Board Member (2019 – present)

National Association of Criminal Defense Lawyers (2010 – 2013)
Administrative Coordinator, Amicus Curiae Committee (2010 – 2013)

South Asian Bar Association of Washington, D.C. (2009 – 2010; 2013 – present)
Mentor (2019 – present)

U.S. Court of Appeals for the D.C. Circuit, Committee on Procedures (2017 – present)

Washington Bar Association (2021 – present)

Women's Bar Association of D.C. (2017 – 2019; 2021 – present)

- 12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Achilles International, D.C. Chapter (2018 – present)

Arlington Road Runners Club (2013 – 2020)
Mentor (2018 – 2019)

Bard College at Simon's Rock Board of Overseers (2006 – present)

None of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, or religion, through either formal membership requirements or the practical implementation of membership policies.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

District of Columbia, admitted October 4, 2010

Commonwealth of Virginia, admitted October 30, 2006

U.S. Supreme Court, admitted August 15, 2011

U.S. Court of Appeals for the Third Circuit, admitted June 5, 2008

U.S. Court of Appeals for the Fourth Circuit, admitted November 7, 2018

U.S. Court of Appeals for the Sixth Circuit, admitted April 12, 2011

U.S. Court of Appeals for the Seventh Circuit, admitted October 21, 2011

U.S. Court of Appeals for the Ninth Circuit, admitted June 14, 2010

U.S. Court of Appeals for the Tenth Circuit, admitted December 12, 2012

U.S. Court of Appeals for the Eleventh Circuit, admitted November 9, 2010

U.S. Court of Appeals for the D.C. Circuit, admitted March 2009

U.S. Court of Appeals for the Federal Circuit, admitted February 17, 2010

U.S. District Court for the District of Columbia, admitted December 19, 2017

My membership in the U.S. Court of Appeals for the Eleventh Circuit lapsed in 2015 because the court assesses a fee for maintaining membership and I had no cases there that necessitated renewal. There have been no other lapses in membership.

14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

“Symposium: A false choice between state sovereignty and multi-racial democracy,” SCOTUSBlog.com (February 2021) (with Harrison M. Stark)

“Symposium: A trio of cases, a lot at stake,” SCOTUSBlog.com (September 2019)

“Early Ever After: Alumni Reflect on Life After Simon’s Rock,” in *Educating Outside the Lines: Bard College at Simon’s Rock on a “New Pedagogy” for the Twenty-First Century* (Nancy Yanoshak, ed. 2011) (with Dr. Michael A. Lawrence)

Louis H. Pollak, *To Administer Justice*, 80 TEMP. L. REV. 1, 1 n.1 (2007)

Charles R. Lawrence, III, *Who Is the Child Left Behind?: The Racial Meaning of the New School Reform*, 39 SUFFOLK U. L. REV. 699, 699 n.† (2006)

Charles R. Lawrence, III, *Forbidden Conversations: On Race, Privacy, and Community (A Continuing Conversation with John Ely on Racism and Democracy)*, 114 YALE L.J. 1353, 1353 n.† (2005)

As a member of the *Georgetown Law Journal* from 2004 to 2006, I edited several law review articles. I do not recall all the articles I edited, but have included ones where I was specifically mentioned as an editor or contributor.

Daniel Knepper, *Eliminating the Federal Subsidy in Kelo: Restricting the Availability of Tax-Exempt Financing for Redevelopment Projects*, 94 GEO. L.J. 1635, 1635 n.* (2006)

Matt Getz, *"Drowned in Advertising Chatter": The Case for Regulating Ad Time on Television*, 94 GEO. L.J. 1229, 1229 n.* (2006)

Aaron Xavier Fellmeth, *Civil and Criminal Sanctions in the Constitution and Courts*, 94 GEO. L.J. 1, 55 n.197 (2005)

The Georgetown Law Journal Thirty-Fourth Annual Review of Criminal Procedure, 34 GEO. L.J. ANN. REV. CRIM. PROC. 1 (2005)

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

June 3, 2019: Remarks at the U.S. District Court for the District of Columbia's Attorney Admissions Ceremony, Washington, D.C. Copy supplied.

October 13, 2018: Opening remarks at the Robert E. Wone Annual Judicial Clerkship and Internship Conference, Washington, D.C. I have no notes, transcript, or recording.

February 6, 2018: Remarks on the "Todd S. Kim Recognition Resolution of 2018," D.C. Council, Washington, D.C. Attorney General Racine was scheduled to deliver these remarks, but he had a last-minute conflict and I delivered them. Copy supplied.

I am frequently asked to speak to law students and bar associations, judge moot courts, and present trainings and continuing legal education courses. To the best of my recollection and through a review of my calendar, I have found the following responsive materials. When giving such presentations, I do not speak from a written text, but do sometimes use notes. To the extent that I have been able to locate notes that I prepared for these presentations, I have included them.

July 26, 2021: Presenter, Supreme Court Update for Municipal Lawyers, 21st Annual Municipal Law Institute, Practising Law Institute (virtual). Notes supplied; recording available at <https://www.pli.edu/programs/municipal-law-institute> (paywall).

July 19, 2021: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers, LLP (virtual). Notes supplied.

July 14, 2021: Panelist, Discussion about the D.C. Office of the Attorney General, Hispanic Bar Association Judicial Council (virtual). I have no notes, transcript, or recording.

May 7, 2021: Guest Contributor, Was That Justice Breyer's Last Argument?, Bloomberg Law's *Cases and Controversies* Podcast (virtual). Recording available at <https://www.bloomberglaw.com/podcast>

[//dcs.megaphone.fm/BL3054122755.mp3?key=4de634b365edd14db19ad918fbd241c6](https://dcs.megaphone.fm/BL3054122755.mp3?key=4de634b365edd14db19ad918fbd241c6).

April 19, 2021: Guest Lecturer, Appellate Courts Immersion Clinic, Georgetown University Law Center (virtual). I have no notes, transcript, or recording.

April 15, 2021: Panelist, A Day in the Life of a Litigator, South Asian Bar Association of North America (virtual). I have no notes, transcript, or recording.

March 24, 2021: Panelist, Power Plays: Advocating for Yourself and Others in the Workplace, Penn State Professional Women's Network of Washington, D.C. (virtual). Notes supplied.

March 16, 2021: Guest Lecturer, Law and Public Service Class, University of Virginia School of Law (virtual). I have no notes, transcript, or recording.

February 26, 2021: Moot Court Judge, 2021 D.C. Cup Moot Court Competition, D.C. Bar (virtual). I have no notes, transcript, or recording.

February 18, 2021: Panelist, ACS at 20: Honoring Two Decades of Shaping Debate, Building the Network, and Making a Difference, American Constitution Society (virtual). Recording available at <https://www.acslaw.org/video/acs-at-20-honoring-two-decades-of-shaping-debate-building-the-network-and-making-a-difference/>.

January 27, 2021: Presenter, Training: Writing a Decision to Withstand Appellate Scrutiny, D.C. Office of Administrative Hearings (virtual). I have no notes, transcript, or recording.

October 16, 2020: Panelist, Excessive Force Claims: Arrestees, Detainees, and Prisoners, 37th Annual Section 1983 Civil Rights Litigation Program, Practising Law Institute (virtual). I have no notes; recording available at <https://www.pli.edu/programs/section-1983-civil-rights-litigation?t=ondemand&p=274363#SEG125805> (paywall).

October 14, 2020: Panelist, The Role of a Solicitor General, co-hosted by the Georgetown Law Federalist Society and the Georgetown Law American Constitution Society (virtual). Notes supplied.

October 8, 2020: Presenter, Coffee Chat with Harvard Law Review Editors, Harvard Law School (virtual). I have no notes, transcript, or recording.

October 1, 2020: Panelist, Fighting the Big Fights: Litigating at the Supreme Court, co-hosted by the Harvard Law Review, the Harvard Law American Constitution Society and the Harvard Law Federalist Society (virtual). I have no notes, transcript, or recording.

August 13, 2020: Presenter, Training: Motions for Summary Adjudication, D.C. Office of Administrative Hearings (virtual). I have no notes, transcript, or recording.

August 12, 2020: Panelist, Supreme Court Review, Apple, Inc. (virtual). Notes supplied.

August 4, 2020: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers, LLP (virtual). Notes supplied.

July 20, 2020: Presenter, Supreme Court Update for Municipal Lawyers, 20th Annual Municipal Law Institute, Practising Law Institute (virtual). Notes supplied.

June 26, 2020: Panelist, Supreme Court Term Review, South Asian Bar Association of North America Annual Conference (virtual). Recording available at <https://www.youtube.com/watch?v=WG2YTYvvepc&feature=youtu.be>.

June 10, 2020: Panelist, Appellate Practice Group Dinner, American Constitution Society (virtual). I have no notes, transcript, or recording.

March 4, 2020: Guest Lecturer, Georgetown Appellate Litigation Clinic, Georgetown University Law Center, Washington, D.C. Notes supplied.

February 28, 2020: Moot Court Judge, 2020 D.C. Cup Moot Court Competition, D.C. Bar, Washington, D.C. I have no notes, transcript, or recording.

February 12, 2020: Panelist, Nationwide Injunctions and Federal Regulatory Programs, Administrative Conference of the United States, Washington, D.C. Transcript supplied.

January 24, 2020: Panelist, Working in an Attorney General's Office, Yale Law American Constitution Society, Washington, D.C. I have no notes, transcript, or recording.

January 21, 2020: Panelist, Discussion with members of the Harvard Law Supreme Court Clinic, Goldstein & Russell, P.C., Bethesda, MD. I have no notes, transcript, or recording.

October 15, 2019: Guest Lecturer, Federal Practice Seminar: Contemporary Issues, Georgetown University Law Center, Washington, D.C. Notes supplied.

October 10, 2019: Panelist, Supreme Court Term Preview, University of Virginia American Constitution Society, Charlottesville, VA. I have no notes, transcript, or recording.

September 26, 2019: Panelist, Supreme Court Advocacy: Where Are the Women?, Women's Bar Association of D.C., Washington, D.C. I have no notes, transcript, or recording.

July 29, 2019: Presenter, Supreme Court Update for Municipal Lawyers, 19th Annual Municipal Law Institute, Practising Law Institute, New York, NY. Notes supplied.

July 10, 2019: Moderator, Supreme Court Term Review, National Association of Attorneys General State Solicitors General and Appellate Chiefs Conference, Washington, D.C. Notes supplied.

July 2, 2019: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers, LLP, Washington, D.C. Notes supplied.

June 22, 2019: The Role and Impact of Solicitors General, South Asian Bar Association of North America Annual Conference, Atlanta, GA. Recording available at <https://www.youtube.com/watch?v=nODqpl70DHA>.

June 18, 2019: Speaker, Brown bag lunch with D.C. Court of Appeals law clerks, D.C. Court of Appeals, Washington, D.C. Notes supplied.

June 17, 2019: Panelist, Discussion with delegates from the Academy of Public Administration of Kazakhstan, Office of the Attorney General for the District of Columbia, Washington, D.C. I have no notes, transcript, or recording.

May 9, 2019: Panelist, Appellate Strategies: Insights on the Many Strategic Issues Facing an Appellate Advocate Before Putting Pen to Paper, National Association of Attorneys General Appellate Advocacy Conference, National Harbor, MD. Notes supplied.

April 24, 2019: Moderator, Panel on D.C. Appellate Courts for the 2019 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, D.C. Notes supplied.

April 23, 2019: Panelist, Discussion about U.S. Supreme Court arguments with the 2019 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, D.C. I have no notes, transcript, or recording.

April 10, 2019: Panelist, Advanced Legal Writing Training, Mayor's Office of Legal Counsel, Washington, D.C. Notes supplied.

March 28, 2019: Guest Lecturer, Appellate Courts Immersion Clinic, Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording.

February 23, 2019: Panelist, Working at State Attorney General's Offices, American Constitution Society 2019 Student Convention, Charlottesville, VA. I have no notes, transcript, or recording.

February 21, 2019: Training for Administrative Law Judges, D.C. Office of Administrative Hearings, Washington, D.C. Notes supplied.

February 7, 2019: Guest Lecturer, Golden Gate University Law School Appellate Advocacy Class (virtual). I have no notes, transcript, or recording.

January 23, 2019: Guest Lecturer, Georgetown Appellate Litigation Clinic, Georgetown University Law Center, Washington, D.C. Notes supplied.

December 5, 2018: Panelist, Implications of an Increasingly Conservative Federal Judiciary on GVP Laws, Center for American Progress 2018 Annual National Gun Violence Prevention Meeting, Washington, D.C. I have no notes, transcript, or recording.

November 2, 2018: Panelist, Nationwide Injunctions: The Good, the Bad, and the Ugly, ABA Administrative Law Conference, Washington, D.C. Notes supplied.

October 24, 2018: Panelist, Discussion with members of the Lagos State Judicial Services Commission, Office of the Attorney General for the District of Columbia, Washington, D.C. I have no notes, transcript, or recording.

October 19, 2018: Panelist, The Law Student's Guide to Becoming Solicitor General, University of Virginia American Constitution Society, Charlottesville, VA. I have no notes, transcript, or recording.

October 10, 2018: Panelist, Gun Safety Law and Policy in the D.C. Metro Area, co-hosted by the American University Washington College of Law American Constitution Society and the D.C. Lawyer Chapter of the American Constitution Society, Washington, D.C. I have no notes, transcript, or recording.

September 20, 2018: Panelist, Seeking and Defending Certiorari, VBA Appellate Summit, Virginia Bar Association, Richmond, VA. I have no notes, transcript, or recording.

July 30, 2018: Presenter, Supreme Court Update for Municipal Lawyers, 18th Annual Municipal Law Institute, Practising Law Institute, New York, NY. Notes supplied.

July 11, 2018: Guns and Home Rule: 10 Years After *Heller*, D.C. Bar, Washington, D.C. I have no notes, transcript, or recording.

June 30, 2018: Panelist, Supreme Court Term Review, South Asian Bar Association of North America Annual Conference, New York, NY. Notes supplied.

June 8, 2018: Deregulation, Defunding, and Deference: The Administrative State in the Age of Trump, American Constitution Society 2018 National Convention, Washington, D.C. I have no notes, transcript, or recording.

June 5, 2018: Training for Administrative Law Judges, D.C. Office of Administrative Hearings, Washington, D.C. Notes supplied.

April 20, 2018: Panelist, Framing the Question Presented and Drafting the Petition for Certiorari, International Municipal Lawyers Association Supreme Court and Appellate Practice Program, Washington, D.C. Notes supplied.

March 27, 2018: Panelist, Discussion about U.S. Supreme Court arguments with the 2018 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, D.C. I have no notes, transcript, or recording.

March 19, 2018: Moot Court Judge, 2018 D.C. Cup Moot Court Competition, D.C. Bar, Washington, D.C. I have no notes, transcript, or recording.

March 15, 2018: Panelist, Supreme Court Midterm Review, State and Local Law Center (virtual). I have no notes, transcript, or recording.

February 12, 2018: Panelist, Getting Involved in State and Local Government: A Conversation About Careers in Offices of Attorneys General in the D.C. Area, D.C. Lawyer Chapter of the American Constitution Society, Washington, D.C. I have no notes, transcript, or recording.

December 11, 2017: Moot Court Judge, Georgetown University's undergraduate Courtroom Communications class moot court, Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording.

October 25, 2017: Discussion with Georgetown University's undergraduate Courtroom Communications class about oral argument preparation, Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording.

August 14, 2017: Presenter, Supreme Court Update for Municipal Lawyers, 17th Annual Municipal Law Institute, Practising Law Institute, New York, NY. Notes supplied.

July 14, 2017: Panelist, Supreme Court Term Review, South Asian Bar Association of North America Annual Conference, Washington, D.C. Notes supplied.

May 8, 2017: Panelist, Appellate Strategies: Insights on the Many Strategic Issues Facing an Appellate Advocate Before Putting Pen to Paper, National Association of Attorneys General Appellate Practice Conference, Washington, D.C. Notes supplied.

April 25, 2017: Panelist, Discussion about U.S. Supreme Court arguments with the 2017 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, D.C. I have no notes, transcript, or recording.

December 12, 2016: Moot Court Judge, Georgetown University's undergraduate Courtroom Communications class moot court, Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording.

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

- (1) **Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;**

I served as a law clerk to the following judges:

Judge Thomas L. Ambro
U.S. Court of Appeals for the Third Circuit
Wilmington, DE
September 2007 – July 2008

Judge Louis H. Pollak
U.S. District Court for the Eastern District of Pennsylvania
Philadelphia, PA
August 2006 – August 2007

- (2) **Whether you practiced alone, and if so, the addresses and dates;**

I have never practiced alone.

- (3) **The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.**

November 2013 – present
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
400 Sixth Street, NW, Suite 8100
Washington, D.C. 20001

January 2010 – October 2013
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006

October 2009
American Inns of Court Foundation
Temple Bar Scholarship
225 Reinekers Lane, Suite 770
Alexandria, VA 22314

July 2007 – September 2008
U.S. Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

As a law clerk for Judge Pollak (2006 – 2007), I assisted the Judge with district court hearings and wrote draft opinions in both civil and criminal cases. I also prepared bench memoranda and wrote draft opinions for the Judge's appellate sittings by designation on the U.S. Courts of Appeals for the Third and Ninth Circuits. As a law clerk for Judge Ambro (2007 – 2008), I prepared bench memoranda and wrote draft opinions in cases before the U.S. Court of Appeals for the Third Circuit.

As a Bristow Fellow in the Office of the Solicitor General at the U.S. Department of Justice (2008 – 2009), I drafted certiorari-stage filings and assisted with merits briefs and oral argument preparation in cases before the Supreme Court of the United States. I also briefed and argued a criminal appeal in the U.S. Court of Appeals for the D.C. Circuit and prepared several memoranda making recommendations about whether the United States should take an affirmative appeal from an adverse district court decision.

As an attorney at O'Melveny & Myers LLP (2010 – 2013), I was a member of the Supreme Court and Appellate Litigation Practice Group, focusing on appeals in the Supreme Court of the United States, the federal courts of appeals, and state appellate courts. I also worked on matters before administrative tribunals and trial courts that were likely to end up on appeal.

As the Deputy Solicitor General for Civil and Administrative Appeals at the D.C. Office of the Attorney General (2013 – 2018), I focused exclusively on civil and administrative matters. Specifically, I briefed and argued cases on behalf of the District and supervised appellate attorneys by discussing strategy, reviewing and revising briefs, preparing attorneys for oral argument, and sitting at counsel table during argument. I also advised the Office of the Attorney General's litigating divisions on significant trial matters, including motions practice, discovery, trial preparation, jury instructions, and whether to appeal adverse decisions. Approximately two-thirds of my cases were in the D.C. Court of Appeals.

When I became Solicitor General of the District of Columbia (2018 – present), I assumed responsibility for the District's criminal and juvenile appeals in the D.C. Court of Appeals and the District's amicus curiae practice in addition to my responsibilities as Deputy Solicitor General. As Solicitor General, approximately two-thirds of my cases are in the D.C. Court of Appeals.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

At the D.C. Office of the Attorney General, my sole client is the District of Columbia and its approximately 50 subordinate agencies. The subject matter of my cases varies widely, including challenges under the D.C. Administrative Procedure Act, constitutional torts, criminal law, employment discrimination, family law, tax, workers' compensation, and zoning.

While at O'Melveny & Myers LLP, my clients included large corporations such as Bank of America, Ford Motor Company, Humana, Johnson & Johnson, and U.S. Airways, and the cases involved issues of contract interpretation, statutory interpretation, class certification, antitrust, patent infringement, and products liability. I also had a robust *pro bono* practice, through which I represented individual parties and non-profit amici curiae in constitutional, criminal, and immigration cases.

As a Bristow Fellow in the Office of the Solicitor General at the U.S. Department of Justice, my sole client was the United States and my cases included administrative, civil, and criminal matters.

D. Describe the general nature of your litigation experience, including:

- (1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.**

I appear in court regularly.

- (2) What percentage of these appearances was in:**

- (a) Federal courts (including Federal courts in D.C.);**

34% of my appearances have been in federal courts.

- (b) State courts of record (excluding D.C. courts);**

1% of my appearances have been in state courts.

- (c) D.C. courts (Superior Court and D.C. Court of Appeals only);**

65% of my appearances have been in D.C. courts.

(d) other courts and administrative bodies.

0% of my appearances have been in other courts and administrative bodies.

(3) What percentage of your litigation has been:

(a) civil;

90% of my practice has been in civil matters.

(b) criminal.

10% of my practice has been in criminal matters.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

I have not tried any cases to verdict or judgment; instead, at both the D.C. Office of the Attorney General and O'Melveny & Myers LLP, I have drafted significant trial court briefs and assisted trial attorneys with dispositive motions practice, trial preparation, and post-trial proceedings.

(5) What percentage of these trials was to

(a) a jury;

None.

(b) the court (include cases decided on motion but tabulate them separately).

None.

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or**

judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

1. *Artis v. D.C.*, 138 S. Ct. 594 (2018)

This case involved the proper interpretation of the federal supplemental jurisdiction statute, 28 U.S.C. § 1367, which provides that if a litigant brings a supplemental state-law claim in federal court, the statute of limitations for filing that claim in state court is “tolled” during the pendency of the federal suit and for 30 days thereafter. In 2015, I supervised briefing and argument before the D.C. Court of Appeals, which held that Section 1367 tolled the statute of limitations’ expiration, such that Ms. Artis had 30 days after the dismissal of her federal suit to file in the Superior Court of the District of Columbia. In 2017, the Supreme Court granted certiorari and I co-authored the merits brief and argued the matter before the Court. In a 5-4 decision in 2018, the Supreme Court reversed, holding that Section 1367 stopped the statute of limitations from running at all, thereby giving Ms. Artis the time remaining on the limitations period for her state-law claim as of the date she filed her federal suit, plus an additional 30 days. Consequently, through the Court’s interpretation of Section 1367, the case resolved this procedural issue not only for the District of Columbia but for the entire country.

Co-Counsel:

Assistant Attorney General Todd S. Kim
U.S. Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
(202) 514-2701

Opposing Counsel:

Adam Unikowsky
Jenner & Block LLP
1099 New York Avenue, Suite 900
Washington, D.C. 20001
(202) 639-6041

2. *American Council of Life Insurers v. D.C. Health Benefit Exchange Authority*, 815 F.3d 17 (D.C. Cir. 2016)

The American Council of Life Insurers challenged the funding mechanism created under the Affordable Care Act for the District of Columbia’s Health Benefit Exchange Authority. The district court concluded that the challengers had failed to state a claim on which relief could be granted, but, on appeal, my colleague and I determined that the federal challenge implicated the Tax Injunction Act—namely, that Congress had vested exclusive authority over challenges to District taxes in the District’s local courts, rather than the federal courts, and thus the D.C. Circuit lacked jurisdiction over the appeal. I edited the District’s

appellate brief in June 2015 and presented oral argument in January 2016. In March 2016, the D.C. Circuit agreed with the District's argument and vacated the district court's judgment with instructions to dismiss the case for lack of jurisdiction. Plaintiffs proceeded to file suit in the Superior Court of the District of Columbia. The District prevailed on the merits, and I successfully defended that judgment on appeal in *Unum Life Insurance Co. v. District of Columbia*, 238 A.3d 222 (D.C. 2020).

Co-Counsel:

Stacy L. Anderson
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
400 Sixth Street, NW, Suite 8100
Washington, D.C. 20001
(202) 717-1258

Opposing Counsel:

Paul D. Clement
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Washington, D.C. 20004
(202) 389-5000

3. *Singletary v. District of Columbia*, 766 F.3d 66 (D.C. Cir. 2014)

In this case, I successfully argued to overturn a \$2.3 million jury verdict against the District on the ground that the plaintiff had failed to satisfy the standard for municipal liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978). The briefing had been completed before I joined the Office of the Solicitor General, and I argued the case in January 2014.

Co-Counsel:

Mary L. Wilson
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
400 Sixth Street, NW, Suite 8100
Washington, D.C. 20001
(202) 320-5400

Opposing Counsel:

Stephen C. Leckar
Kalbian Hagerty LLP
888 17th Street, NW, Suite 1000
Washington, D.C. 20006
(202) 223-5600

4. *Westgate Ford Truck Sales, Inc. v. Ford Motor Co.*, 971 N.E.2d 967
(Ohio Ct. App. 2012)

In 2011, an Ohio trial court entered summary judgment on liability against Ford Motor Company in a class action breach of contract case and extrapolated a jury verdict on the named plaintiff's damages into a \$2 billion class-wide judgment. I authored the appellate briefs asking, *inter alia*, for the judgment on liability to be overturned because the contract was ambiguous, foreclosing summary judgment, and because a jury needed to consider Ford's affirmative defenses of waiver, estoppel, and failure to provide notice. I also argued that the trial court had erroneously excluded critical rebuttal evidence at the damages trial that would have significantly reduced any damages—an error that was further compounded by the trial court's extrapolation of the named plaintiff's damages award to the entire class. In 2012, the Ohio Court of Appeals agreed, reversing the liability and damages rulings and remanding for further proceedings.

Co-Counsel:

Chief Judge Srikanth ("Sri") Srinivasan
U.S. Court of Appeals for the D.C. Circuit
333 Constitution Avenue, NW
Washington, D.C. 20001
(202) 216-7080

Opposing Counsel:

James A. Lowe
Lowe Scott Fisher Co., LPA
Tower City Center 1660 West
Second Street, Suite 610
Cleveland, OH 44113
(216) 714-8110

5. *U.S. v. Morgan*, 687 F.3d 688 (6th Cir. 2012)

In 2011, I was appointed by the Sixth Circuit to represent Mr. Morgan in his criminal appeal. I argued before the Sixth Circuit that the district judge had misapplied the federal Sentencing Guidelines, resulting in certain offense conduct being double counted. The Sixth Circuit agreed and remanded for resentencing. Returning to the trial court in late 2012, I secured Mr. Morgan a two-year reduction in his sentence.

Co-Counsel:

Jonathan D. Hacker
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006
(202) 383-5285

Opposing Counsel:

Charles P. Wisdom, Jr. and Erin M. Roth
 U.S. Attorney's Office for the Eastern District of Kentucky
 260 West Vine Street, Suite 300
 Lexington, KY 40507-1612
 (859) 685-4903

18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

During my time at O'Melveny & Myers LLP, I worked with students in O'Melveny's Supreme Court and Appellate Litigation Clinic at Harvard Law School. In Spring 2013, I was an instructor in Professor Noah Messing's class, "Legal Writing Through a Lawsuit," at Yale Law School. I frequently speak at law schools and bar associations and mentor junior lawyers through the Appellate Project and the South Asian Bar Association of Washington, D.C. From 2013 – 2020, I oversaw a program that recruited 16 recent law school graduates each year into government service with the Office of the Attorney General for the District of Columbia.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I have never held judicial office.

- A. **List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

I have never been a candidate for elective, judicial, or other public office.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

Solicitor General of the District of Columbia (appointed).
Deputy Solicitor General (appointed).

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

My spouse has an Employee Stock Option Plan through his current employer, Areté Associates, Inc. (present value \$14,980) and a pension through his former employer, Deloitte Services LP (present value \$26,381). In addition, my spouse and I each have retirement benefits accrued from our current and former employers, including 401(a), 401(k), and 457(b) retirement plans. Estimates of these amounts are described in response to Question III.1 below.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

On February 18, 2021, I testified on behalf of the District of Columbia at a House Judiciary Committee Subcommittee hearing on Courts, Intellectual Property, and the Internet on the U.S. Supreme Court's shadow docket. The Subcommittee was not considering specific legislation.

On February 25, 2020, I testified on behalf of the District of Columbia at a Senate Judiciary Committee hearing about nationwide injunctions. The Committee was not considering specific legislation.

On March 22, 2018, I testified on behalf of the District of Columbia at a D.C. Council hearing about proposed “red flag” legislation, explaining that the Attorney General supported it.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

I intend to continue my volunteer service with the organizations listed in Part I, Questions 10-12, to the extent that it would not create conflicts with my judicial work.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will abide by the ethical canons included in the Code of Judicial Conduct to ensure impartiality and fairness. Should any possible conflicts of interest arise, I will apply the ethical cannons and recusal standards and, if necessary, I will confer with judicial ethics officials to determine, as appropriate, whether I should recuse myself from the matter at issue.

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. **Are you a citizen of the United States?**
Yes.
2. **Are you a member of the bar of the District of Columbia?**
Yes.
3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**
Yes, I was admitted to the District of Columbia Bar on October 4, 2010.
4. **If the answer to Question 3 is “no” --**
 - A. **Are you a professor of law in a law school in the District of Columbia?**
 - B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
 - C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
 - D. **Upon what grounds is that eligibility based?**
5. **Are you a bona fide resident of the District of Columbia?**
Yes.
6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**

Yes, since January 2016, I have resided at [REDACTED]

[REDACTED]

REDACTED

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination Commission questionnaire.**

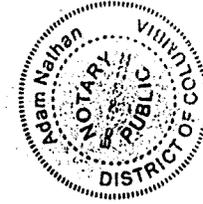
Copies of my District of Columbia Judicial Nomination Commission questionnaire are attached.

AFFIDAVIT

Loren L. Alikhan being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

SUBSCRIBED and SWORN TO before me this 13 day of October 2021.


Notary Public



Senator James Lankford
Post-Hearing Questions for the Record
Submitted to Loren L. AliKhan

Nominations of Loren L. AliKhan and John P. Howard III to be Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge, Superior Court of the District of Columbia

Thursday, December 2, 2021

1. How would you describe your judicial philosophy?

Response: I have never been a judicial officer, but I believe my judicial philosophy would have three components. First, the humility to recognize that a judge's role is quite limited. Legislatures pass laws and executives enact regulations, and the judge's only role is to read the law and apply it to the facts of the case before them. Next, while judging should be a neutral and impartial process, it should also be one in which all parties leave the courtroom feeling that they have been heard and respected. Finally, as a nominee for an appellate court, I think it is important to engage with and learn from one's colleagues because the decision-making process is collaborative.

2. If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?

Response: I would faithfully apply the law.

3. Should judges take changing social values into consideration when interpreting the law?

Response: No. As the Supreme Court explained in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), judges should "interpret[] a statute in accord with the ordinary public meaning of its terms at the time of its enactment." *Id.* at 1738.

4. What role should extrinsic factors not included within the text of a statute, especially legislative history and general principles of justice, play in statutory interpretation?

Response: Statutory interpretation must always start with the text and any binding precedents interpreting that text. In most cases, that is also the end of the inquiry. In cases where the statutory text is ambiguous and there is no binding precedent, it is appropriate to employ accepted methods of statutory interpretation, including consulting dictionary definitions, applying appropriate canons of construction, and, as a last resort, reviewing those forms of legislative history that the Supreme Court has endorsed, such as committee reports but not failed legislative proposals. There is no role for "general principles of justice" in statutory interpretation.

5. If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: A sentencing judge should only consider the facts of the individual case that comes before him or her. As a general matter, sentencing appeals rarely come before the D.C. Court of Appeals because a sentence within the maximum penalty prescribed by law may not be appealed on the ground that it is not compliant with the District's advisory sentencing guidelines. *See Speaks v. United States*, 959 A.2d 712, 719 (D.C. 2008).

6. What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: The backlog of criminal cases caused by several vacancies on the D.C. Superior Court and the D.C. Court of Appeals is a significant issue because it delays closure for victims, causes uncertainty for defendants, and undermines public confidence in the courts. If I am confirmed, I would use my extensive knowledge of District law and procedure to expeditiously resolve criminal appeals.

7. What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: If confirmed, the most critical—and immediate—way that I could serve the District of Columbia is by deciding the cases that come before me promptly and impartially.

8. At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that “congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.” Despite the Supreme Court's warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC's statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

- a. As the District's eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

Response: As Solicitor General of the District of Columbia, I was involved in litigation concerning the eviction moratorium enacted by the Council of the District of Columbia. *See District of Columbia v. Towers*, 250 A.3d 1048 (D.C. 2021). I would therefore be ethically required to recuse myself from hearing cases related to the District's eviction moratorium. *See* Code of Judicial Conduct Rule 2.11(A)(6) (requiring a judge to “disqualify himself or herself in any proceeding in which . . . [t]he judge: (a) served as

a lawyer in the matter in controversy [or] (b) served in government employment, and in such capacity participated personally and substantially as a lawyer . . . concerning the proceeding”).

- b. Will you apply the law to the facts, or will other considerations influence your decision making?

Response: Please see my response to Question 8(a).

9. The Mayor has a vaccine mandate in place for all city employees. If a case came before you where an employee was required to be vaccinated under the Mayor’s order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

Response: If such a case were to come before me, I would apply the standard set forth in the Religious Freedom Restoration Act, under which the District of Columbia “shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability,” unless “it demonstrates that application of the burden to the person . . . (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000bb-1(a) to (b).

10. In 2020, D.C. imposed strict restrictions on in-person worship, prohibiting gatherings of over 100 people for purposes of worship, even if held outdoors. Capitol Hill Baptist Church applied for a waiver from the City’s prohibition. That waiver application was denied despite the fact that other outdoor activities – parks, farmers markets, tennis courts – had no limits.

Are there identifiable limits to what restrictions government may place on houses of worship compared to private businesses? In other words, may a government impose restrictions on businesses that cannot be applied to houses of worship?

Response: If confirmed, I would faithfully apply the standard set forth in the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1(a) to (b), and I would follow the Supreme Court’s guidance in religious liberty cases, including *Tandon v. Newsom*, 141 S. Ct. 1294 (2021); *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021); and *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020). In particular, the Court in *Tandon* explained that where a regulation treats comparable religious activity less favorably than secular activity, it fails strict scrutiny unless the government can “show that the religious exercise at issue is more dangerous than [secular] activities even when the same precautions are applied.” 141 S. Ct. at 1297. In other words, “[t]he State cannot assume the worst when people go to worship but assume the best when people go to work.” *Id.* (internal quotation marks and citation omitted).

11. In *Bostock v. Clayton County, GA*, the Supreme Court held that “an employer who fires an individual merely for being gay or transgender” violates Title VII’s prohibition on discrimination on the basis of sex.

- a. Is it your belief that the interpretation of the definition of sex in Title VII as decided under *Bostock* also applies to other areas of civil rights law, such as Title IX and the Fair Housing Act?

Response: Neither the Supreme Court nor the D.C. Court of Appeals has addressed whether the definition of “sex” in Title VII as decided under *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), applies to other areas of federal civil rights law. The issue is unlikely to come before the D.C. Court of Appeals, however, because the D.C. Human Rights Act expressly prohibits discrimination on the basis of “sexual orientation” and “gender identity or expression.” D.C. Code § 2-1402.11(a).

While not binding on the D.C. Court of Appeals, I am aware that the U.S. Court of Appeals for the Fourth Circuit applied *Bostock* in the context of Title IX. *See Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020); *see also Peltier v. Charter Day Sch., Inc.*, 8 F.4th 251 (4th Cir. 2021), *reh’g en banc granted*, 2021 WL 4892153. The U.S. Court of Appeals for the Eleventh Circuit initially did as well, *Adams v. Sch. Bd. of St. Johns Cnty.*, 968 F.3d 1286 (11th Cir. 2020), but that opinion was subsequently vacated, 3 F.4th 1299 (11th Cir. 2021), and the matter is now pending before the court en banc, 9 F.4th 1369 (11th Cir. 2021).

- b. What is the implication for religious organizations – are they free to act consistently with their beliefs in the public square?

Response: The Supreme Court has held that the ministerial exception, which is grounded in the First Amendment, bars employees from bringing claims against religious organizations under the federal civil rights laws, including Title VII, *see Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012), and the Age Discrimination in Employment Act, *see Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020). The ministerial exception likewise bars employees from bringing claims against religious organizations under the D.C. Human Rights Act. *See Pardue v. Ctr. City Consortium Schs. of Archdiocese of Wash., Inc.*, 875 A.2d 669 (D.C. 2005). I would faithfully apply those precedents if I am confirmed.

**Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to Loren L. AliKhan**

Nominations of Loren L. AliKhan and John P. Howard III to be Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge, Superior Court of the District of Columbia

Thursday, December 2, 2021

1. The First Amendment of the United States Constitution protects the free exercise of religion.

- a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: The District of Columbia is a “covered entity” under the Religious Freedom Restoration Act (“RFRA”). 42 U.S.C. § 2000bb-2(2). Under RFRA, the District “shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability,” unless “it demonstrates that application of the burden to the person . . . (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” *Id.* § 2000bb-1(a) to (b).

Supreme Court cases applying RFRA, including *Little Sisters of the Poor v. Pennsylvania*, 140 S. Ct. 2367 (2020), and *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014), are binding precedent.

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: Please see my response to Question 1(a).

- c. What is the standard in the District of Columbia for evaluating whether a person’s religious belief is held sincerely?

Response: In *Hernandez v. Commissioner of Internal Revenue*, 490 U.S. 680 (1989), the Supreme Court explained that “[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants’ interpretations of those creeds. *Id.* at 699; *see Emp. Div. v. Smith*, 494 U.S. 872, 887 (1990) (reaffirming this principle). Instead, a court’s “‘narrow function . . . is to determine’ whether the line drawn reflects ‘an honest

conviction.” *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014) (quoting *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 716 (1981)).

2. What is your understanding of the Supreme Court’s holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that the Second Amendment protects an individual’s right to possess a handgun independent of service in a militia, and to use that handgun for traditionally lawful purposes, including self-defense within the home. *Id.* at 576-628, 635.

3. Please state whether you agree or disagree with the following statement and explain why: “Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted.”

Response: I agree. In *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), the Supreme Court explained that judges should “interpret[] a statute in accord with the ordinary public meaning of its terms at the time of its enactment.” *Id.* at 1738.

4. What is your understanding of the holding of *Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993)?

Response: In *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993), the Supreme Court held that four city ordinances concerning the ritual killing of animals violated the Free Exercise Clause. *Id.* at 547. The Court started with the framework from *Employment Division v. Smith*, 494 U.S. 872 (1990), explaining the “general proposition that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular religious practice,” *Lukumi*, 508 U.S. at 531 (citing *Smith*). The Court concluded that the ordinances failed the *Smith* test because they were neither neutral nor of general applicability. The laws were not neutral because they “had as their object the suppression of religion”—specifically, the Santeria religious practice of animal sacrifice. *Lukumi*, 508 U.S. at 542. And the ordinances were not of general applicability because they “pursue[] the city’s governmental interests only against conduct motivated by religious belief.” *Id.* at 545.

Because the ordinances were neither neutral nor generally applicable, the Court applied “the most rigorous of scrutiny,” under which “a law restrictive of religious practice must advance interests of the highest order and must be narrowly tailored in pursuit of those interests.” *Id.* at 546 (internal quotation marks and citations omitted). The Court concluded that the ordinances failed strict scrutiny because the city had not shown that its interests were compelling, *id.* at 546-47, nor that the

ordinances were narrowly tailored to any government interest, where “all four ordinances are overbroad or underinclusive in substantial respects,” *id.* at 546.

5. In Charles R. Lawrence, *Forbidden Conversations: On Race, Privacy, and Community*, 114 *Yale L.J.* 1353 (2005), the author thanks you for your “expert research assistance.” The author goes on to write: “I believe that we are all racists, that we share a common history and culture where racism has played and still plays a central role. This shared experience shapes ideas, attitudes, and beliefs that attach significance to an individual’s race and induce negative feelings and opinions about nonwhites. None of us is exempt from the wages of America’s racism.”

- a. Do you agree with this statement?

Response: No.

- b. What was your role in drafting this article?

Response: I did not draft this article. While a student at Georgetown University Law Center, I worked as a research assistant to Professor Charles R. Lawrence, III, preparing memoranda on topics related to education law and policy.

- c. Do you support critical race theory?

Response: No.

- d. Have you ever supported or advocated for critical race theory?

Response: No.

6. In *Capitol Hill Baptist Church v. Bowser*, 496 F. Supp. 3d 284 (D.D.C. 2020), the court held that the District of Columbia’s COVID-19 restrictions violated the free exercise of religion.

- a. In advising on this litigation, what steps did you take to ensure that the District of Columbia would not violate the religious liberties of its residents—or did you fail to take action until the federal district court enjoined the District of Columbia’s policy?

Response: The COVID-19 restrictions that were at issue in *Capitol Hill Baptist Church v. Bowser*, 496 F. Supp. 3d 284 (D.D.C. 2020), were imposed by the Mayor of the District of Columbia. The Attorney General for the District of Columbia is independently elected from the Mayor. D.C. Code § 1-204.35(a). The Office of the Attorney General has a Legal Counsel Division that, upon request of the Mayor, provides advice and opinions. *See id.* § 1-301.81(a)(2). Other divisions within the Office of the Attorney General, including the Office of the Solicitor General, represent the District when it is sued. *Id.* § 1-301.81(a)(1).

In light of my ethical obligations to my clients, I am unable to comment on any specific advice I provided in connection with the *Capitol Hill Baptist Church* case. It is a matter of public record, however, that the District did not appeal the district court's decision. And in every case in which I represent the District, I take seriously the District's constitutional, statutory, and regulatory obligations and advise my clients accordingly.

- b. What is your understanding of the holding of *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. ___ (2021)?

Response: In *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020), the Supreme Court granted religious organizations' applications for injunctive relief pending appeal on their claims that New York State's COVID-19 occupancy restrictions violated the Free Exercise Clause. First, the Court concluded that the religious organizations were likely to succeed on the merits of their Free Exercise claims because the COVID-19 restrictions "single out houses of worship for especially harsh treatment." *Id.* at 66. Second, the Court explained that "[t]here can be no question that the challenged restrictions, if enforced, will cause irreparable harm." *Id.* at 67. Third, the Court determined that New York had not shown that granting the applications would harm the public, especially where "the State has not claimed that attendance at the applicants' services has resulted in the spread of" COVID-19. *Id.* at 68. Fourth and finally, the Court held that the matter had not become moot based on changes in the applicable occupancy requirements. *Id.*

- c. What is your understanding of the holding of *South Bay United Pentecostal Church v. Newsom*, 592 U.S. ___ (2021)?

Response: In *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021), the Supreme Court enjoined the Governor of California from enforcing a provision in his COVID-19 executive order that prohibited indoor worship services in high-transmission areas, but the Court declined to enjoin enforcement of provisions that imposed a 25% capacity cap and prohibited singing or chanting during indoor services in high-transmission areas. *Id.*

- d. If confirmed, do you commit to vigorously upholding religious liberty claims as protected by the First Amendment and federal law?

Response: Yes.

7. In *Brnovich v. Democratic National Committee*, 594 U.S. ___ (2021), you filed a brief as counsel of record on behalf of the District of Columbia and various States as *amici curiae*.

- a. What is your understanding of the holding of *Brnovich v. Democratic National Committee*, 594 U.S. ___ (2021)?

Response: In *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321 (2021), the Supreme Court considered two Arizona election rules under Section 2 of the Voting Rights Act’s “totality of the circumstances” test, and concluded that neither provision violated the Act. *Id.* at 2350.

- b. Do you believe that *Shelby County v. Holder*, 570 U.S. 529 (2013) was rightly decided?

Response: As a nominee, it is generally not appropriate for me to comment on whether any particular Supreme Court precedent was correctly decided. I will follow all binding Supreme Court and D.C. Court of Appeals precedent if I am confirmed.

- c. Do you believe that *Shelby County* is good law?

Response: Yes, and I would faithfully apply it if I am confirmed.

8. Do you believe that voter ID laws are constitutional?

Response: If I am confirmed and confronted with a voter ID law, I would apply applicable precedents, including *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008).

- a. Do you believe that laws requiring individuals to present ID in order to purchase alcohol, operate a vehicle, or board an airplane are constitutional?

Response: Purchasing alcohol or engaging in a particular mode of travel are not fundamental rights. *See, e.g., DFW Vending, Inc. v. Jefferson County*, 991 F. Supp. 578, 598 (E.D. Tex. 1998) (no fundamental right to drink alcohol); *Berberian v. Petit*, 374 A.2d 791, 794 (R.I. 1977) (no fundamental right to operate a motor vehicle); *City of Houston v. FAA*, 679 F.2d 1184, 1198 (5th Cir. 1982) (no fundamental right to air travel). Accordingly, ID requirements in those contexts are constitutional as long as there is a rational basis for them.

- b. What is your understanding of the holding in *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008)?

Response: In *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008), the Supreme Court upheld Indiana’s voter ID law against constitutional challenge.

- c. Do you believe that *Crawford* was rightly decided?

Response: As a nominee, it is generally not appropriate for me to comment on whether any particular Supreme Court precedent was correctly decided. I will follow all binding Supreme Court and D.C. Court of Appeals precedent if I am confirmed.

d. Do you believe that *Crawford* is good law and binding on the District of Columbia?

Response: Yes.

e. Do you believe that States have a legitimate interest in safeguarding against voter fraud?

Response: Yes.

9. Have you ever worked on a legal case or representation in which you opposed a party's religious liberty claim?

Response: In my role as Solicitor General of the District of Columbia, I am responsible for overseeing all of the District's appellate litigation, including defending against constitutional challenges to District statutes and the Mayor's executive orders. In this capacity, I have been involved in a handful of cases involving religious liberty claims. I also handled one religious liberty case in private practice and one while with the Office of the Solicitor General at the U.S. Department of Justice.

a. If so, please describe the nature of the representation and the extent of your involvement. Please also include citations or reference to all such the cases.

Response: I have not argued any cases concerning religious liberty claims. Upon searching Westlaw, I have been able to identify the following cases in which I was involved:

Pleasant Grove City v. Summum, 555 U.S. 460 (2009) (assisted with briefing and argument preparation)

Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, 565 U.S. 171 (2012) (assisted with briefing and argument preparation)

Capitol Hill Baptist Church v. Bowser, 496 F. Supp. 3d 284 (D.D.C. 2020) (consulted with trial team; appellate counsel)

Roman Catholic Archbishop of Washington v. Bowser, 531 F. Supp. 3d 22 (D.D.C. 2021) (consulted with trial team; appellate counsel)

Frederick Douglass Foundation, Inc. v. District of Columbia, 531 F. Supp. 3d 316 (D.D.C. 2021), *appeal filed*, D.C. Cir. No. 21-7108 (appellate counsel)

10. What role should the original public meaning of the Constitution's text play in the courts' interpretation of its provisions?

Response: In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court explained that "the public understanding of a legal text in the period after its enactment or

ratification . . . is a critical tool of constitutional interpretation.” *Id.* at 605 (emphasis omitted).

11. Do you consider legislative history when interpreting legal texts?

Response: The Supreme Court has explained that certain types of legislative history can sometimes be useful when interpreting ambiguous statutory text, and I would follow that guidance if I am confirmed.

- a. If so, do you treat all legislative history the same or do you believe some legislative history is more probative of legislative intent than others?

Response: I would follow the Supreme Court’s guidance on what types of legislative history are appropriate to consult. For example, the Supreme Court has explained that committee reports may be useful, *see Garcia v. United States*, 469 U.S. 70, 76 (1984), but it has cautioned against relying on floor statements, *see id.*; *see also NLRB v. S.W. Gen., Inc.*, 137 S. Ct. 929, 943 (2017), and failed legislative proposals, *see United States v. Craft*, 535 U.S. 274, 287 (2002).

- b. When, if ever, is it appropriate to consult the laws of foreign nations when interpreting the provisions of the U.S. Constitution?

Response: The U.S. Constitution is a domestic document and should generally be interpreted only in accordance with its text, structure, and historical background. In limited circumstances, however, the Supreme Court has looked to English common law to understand the ordinary meaning of the Constitution’s text at the time of ratification. *See District of Columbia v. Heller*, 554 U.S. 570, 582 (2008). I would follow that guidance if I am confirmed.

12. Under U.S. Supreme Court precedent and applicable District of Columbia cases, what is the standard for evaluating an individual’s right to refuse a compelled DNA test?

Response: The Supreme Court has explained that a compelled DNA test is a “search” within the meaning of the Fourth Amendment. *See Maryland v. King*, 569 U.S. 435, 446 (2013). “As the text of the Fourth Amendment indicates, the ultimate measure of the constitutionality of a governmental search is reasonableness.” *Id.* (internal quotation marks and citation omitted). The D.C. Court of Appeals follows *King*. *See In re G.B.*, 139 A.3d 885, 897-98 (D.C. 2016).

13. If a state constitution contains a provision protecting a civil right and is phrased identically with a provision in the federal constitution, how would you determine the scope of the state constitutional right?

- a. Do you believe that identical texts should be interpreted identically?

Response: As a federal district under Article I, Section 8 of the U.S. Constitution, the District of Columbia is not a state, and it does not have a state constitution.

- b. Do you believe that the federal provision provides a floor but that the state provision provides greater protections?

Response: Please see my answer to Question 13(a).

14. What is your understanding of the scope of qualified immunity?

Response: In *Wilson v. Layne*, 526 U.S. 603 (1999), the Supreme Court explained that “government officials performing discretionary functions generally are granted a qualified immunity and are ‘shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Id.* at 609 (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)).

15. What is your understanding of the role of federalism in our constitutional system?

Response: In *Bond v. United States*, 564 U.S. 211 (2011), the Supreme Court explained that the “allocation of powers between the National Government and the States enhances freedom, first by protecting the integrity of the governments themselves, and second by protecting the people, from whom all governmental powers are derived.” *Id.* at 221. The District of Columbia is not a state. U.S. Const. art. I, § 8; see *Estep v. Constr. Gen., Inc.*, 546 A.2d 376, 381 (D.C. 1988) (“Because the District, however, is not a state, Supreme Court interference with the courts of the District cannot raise legitimate objections grounded purely on concerns about federalism.”).

16. What in your view are the relative advantages and disadvantages of awarding damages versus injunctive relief?

Response: The Supreme Court has explained that injunctive relief is an “extraordinary remedy,” the basis of which requires “irreparable injury and the inadequacy of legal remedies,” including damages. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); see *eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006) (“According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.”).

17. Please provide a detailed summary of the process that led to your nomination.

Response: On December 6, 2019, the D.C. Judicial Nomination Commission posted an announcement seeking applications for two judicial vacancies on the D.C. Court of Appeals. I submitted an application on February 24, 2020, and interviewed with the Commission on April 23, 2020. On April 28, 2020, the Commission submitted my name to the White House pursuant to D.C. Code § 1-204.34(d)(1). I interviewed with members of the White House Counsel's Office on May 4, 2020, and on April 21, 2021. On September 30, 2021, the President announced his intent to nominate me.

a. Who first raised the possibility of your nomination?

Response: I became aware that the D.C. Judicial Nomination Commission was soliciting applications for two vacancies on the D.C. Court of Appeals when it was announced on December 6, 2019.

b. Have you spoken with any interest groups, such as Demand Justice, concerning your nomination?

Response: No, I have not spoken with any interest groups in conjunction with this nomination.

c. How many conversations did you have with White House staff leading up to your nomination?

Response: On May 4, 2020, and April 21, 2021, I interviewed with members of the White House Counsel's Office. In early May 2021, I was informed by a member of the White House Counsel's Office that they wished to begin a formal vetting process. In July 2021, members of the White House Presidential Personnel Office conducted a vetting interview. On September 29, 2021, a member of the White House Counsel's Office told me that the President would be announcing his intent to nominate me the following day.

Opening Statement of John P. Howard, III
Nominee to be an Associate Judge of the District of Columbia Court of Appeals

Good morning Chair, Ranking Member, and members of the Committee. I am honored and deeply grateful for the opportunity to appear before you as you consider my nomination. I am thankful to you and your hard-working staff for holding this hearing. Thank you to the Judicial Nomination Commission and its Chair, Judge Sullivan, for recommending me to the White House. I was extremely grateful to have been originally nominated last year and am honored once again to be nominated for the second time this year. I am grateful to Chief Judge Blackburne-Rigsby and the judges of the D.C. Court of Appeals for their time, encouragement, and guidance. It is humbling to be considered to be a colleague of the group of jurists this Committee has assembled over the years.

I am cognizant that I have never made it anywhere on my own, and, for nearly sixteen years, little would have been possible without my wife, Brandi Howard, especially our greatest blessing—our two-year old son Jack, whose infectious joy permeates our lives. Thank you to the judges I began my career under, Alexander Williams, Jr. and David C. Simmons. Thank you to my clerk family and my colleagues. I would also like to express gratitude for the love and support of my Georgetown Hoya family and my Howard family, both from Howard University and the Howard family I was blessed to be born into.

Watching eagerly from his farm in Greer, South Carolina, I would like to thank my grandfather Rev. Mickey Fisher. I would like to acknowledge my late grandmothers, Marilyn Fisher and Tala Howard, who loved me without limit. Finally, I would like to acknowledge my late father, Pete Howard. I was blessed to be raised by him. Dad taught in action and word, and a lesson he lived was to seek to command respect, not demand it, starting by respecting everyone as equals in God's eyes. I hope my back will be half as broad as his in the eyes of my son.

For over seven years, it has been my privilege to serve my fellow citizens as an administrative law judge on two local administrative courts, where I have presided over nearly two thousand cases. I have worked to ensure that every party appearing before me can meaningfully participate in the adjudicative process and is heard; that the law is applied impartially; that my written decisions are clear; and that justice is provided in a timely fashion. At my current court, this is no small task as our cases require written decisions and each judge must process hundreds of cases yearly, which are appealable to the D.C. Court of Appeals.

Prior to becoming an administrative law judge, I was in private practice. I began my career as a judicial clerk, before joining Akin, Gump, Strauss, Hauer & Feld LLP as a member of its first class of Pro Bono Scholars. Following my wife's graduation from law school, we moved to Texas where I engaged in solo practice, before returning to the District.

If I am so blessed to receive your support and to be confirmed, I will remain committed to serving the residents of the District of Columbia. Thank you again for considering my nomination, and I look forward to answering your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

- 1. Full name (include any former names used).**

John Peter Howard, III
John Pete Howard
J.P. Howard

- 2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a U.S. citizen.

- 3. Current office address and telephone number.**

441 4th Street, N.W.
Suite 450N
Washington, D.C. 20001
(202) 671-0172

- 4. Date and place of birth.**

June 11, 1984; Greenville, South Carolina.

- 5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am married to Brandi G. Howard (née Mirzakhani), an attorney at McGuireWoods LLP, 2001 K Street, N.W., Suite 400, Washington, D.C. 20006.

- 6. Names and ages of children. List occupation and employer's name if appropriate.**

REDACTED

7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

Georgetown University Law Center; 2007 – 2010; J.D. awarded 2010.

Howard University; 2002 – 2006; B.A. awarded 2006.

U.C. Berkeley Goldman School of Public Policy; Public Policy and International Affairs Fellowship; 2005, no degree received.

Southside High School (Greenville, S.C.); 1998 – 2002; High School Diploma awarded 2002.

Our Lady of the Rosary Catholic School; 1989 – 1998; no degree awarded.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

2013

G.M.A. Review Services

No Current Address (Business Closed)

Member (Self-Employment)

2009 – 2010

Georgetown University Law Center

Office of Admissions

600 New Jersey Avenue, N.W.

McDonough Hall, Room 589

Washington, D.C. 20001

Admissions Reviewer

2008 – 2010

Georgetown University Law Center

600 New Jersey Avenue, N.W., Hotung 5025

Washington, D.C. 20001

Research Assistant to Professor Anthony Cook

2007 – 2008
Georgetown University Law Center
Campus Police Department
600 New Jersey Avenue, N.W.
McDonough Hall, Room 102
Washington, D.C. 20001
Student Guard

2007
National Conference of State Legislatures
444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001
Bill Emerson Fellow

2006 – 2007
Congressional Hunger Center
CHC c/o WeWork Apollo
810 7th Street, N.E., Suite 02-146
Washington, D.C. 20002
Bill Emerson Fellow

2006 – 2007
Second Harvest Food Bank of Greater New Orleans and Acadiana
700 Edwards Avenue
New Orleans, L.A. 70123
Bill Emerson Fellow

9. Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

National Bar Association 40 under 40, 2021, & Individual Award for Service

National Bar Association Young Lawyers Division/ Washington Bar Association
Young Lawyers Division, Congressional Black Caucus Power 100, 2019

Fellow of the American Bar Foundation, 2018 – Present

American Bar Association “On the Rise” Top 40 Young Attorneys in America, 2017

Georgetown Law Recent Alumni Advisory Council, 2016 – 2020

Akin Gump Pro Bono Pledge Honoree, 2011

Georgetown Law Pro Bono Pledge Graduation Honors, 2010

Willem C. Vis International Moot Team Co-Captain, 2009 – 2010

Georgetown Law Scholars Scholarship (Opportunity Scholarship), 2007 – 2010

National Society of Collegiate Scholars, 2004 – 2006

Dean Donald J. Weidner Summer for Undergraduates Program,
Florida State College of Law, 2005

Who's Who Among Students in American Universities & Colleges, 2005

Howard University Trustee, 2004 – 2005

Howard University Executive Safety & Security Task Force, 2004

United Leaders Institute for Political Service Fellowship, 2004

Howard University Trustee Scholarship, 2003 – 2006

Charles R. Drew Honor Society, 2003 – 2006

4th Annual Harvard/Princeton Public Policy and Leadership Conference, Fellow, 2003

- 10. Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

Howard University Trustee, 2004 – 2005

- 11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

American Bar Association

Member, 2011 – 2012, 2014 – Present

Judicial Division, 2014 – Present

Young Lawyers Division, 2014 – Present

National Bar Association

Member, 2007 – 2012, 2021 – Present

Judicial Council, 2021 – Present

Washington Bar Association
 Member, 2014 – Present
 Judicial Council, 2014 - Present
 Chair, 2021 – Present
 Vice Chair, 2019 –2021
 Secretary, 2018 – 2019
 Member-At-Large, 2017 – 2018
 Technology Chair, 2016 – 2017
 Summer Judicial Internship Program Co-Chair, 2016 – Present

Asian Pacific American Bar Association – D.C.
 Member, 2017 – Present

National Association of Administrative Law Judiciary
 Member, 2014 – Present
 National Conference Planning Committee, 2019 – 2020

D.C. Association of Administrative Law Judiciary
 Member, 2014 – Present
 President, 2019 – Present
 President Elect, 2017 – 2019
 Vice Chair, 2015 – 2016

Greater Washington Area Chapter, Women Lawyers Division, National Bar Association
 Member, 2020 – Present

- 12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Street Law Program
 Volunteer, 2010 – 2012, 2014 – Present
 Outside-Coordinator and Guest Lecturer, Youth Human Rights Ambassador Program (Joint Program with D.C. Commission on Human Rights), 2014 – 2018

Robert R. Rigsby Law Camp
 Mentor, 2016 – Present

Charles Hamilton Houston Program
 Volunteer, 2015 – Present

Georgetown Law Recent Alumni Advisory Council

Member, 2016 – 2021

Georgetown Law Alumni Interviewer Program
Interviewer, 2010 – Present

Georgetown BLSA Mentor Corps
Mentor, 2008 – Present

Howard University Office of Career Services
JEL Mentoring Program (now Bison Career Mentor Program)
Mentor, 2016 – 2019

Phi Alpha Delta
Member, 2008 – Present

Congressional Hunger Center
Bill Emerson Fellowship Selection Panel, 2011 – 2020

None of the organizations above discriminate or formerly discriminated on the basis of race, sex, or religion.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

Virginia, admitted November 2010 (inactive 2012 – 2015)

District of Columbia, admitted February 2012 (inactive 2012 – 2014)

Texas, admitted May 2013 (inactive since 2015)

U.S. District Court for the Southern District of Texas, admitted May 2014

U.S. Court of Appeals for the Sixth Circuit, admitted August 2017

My admission to the U.S. District Court for the Southern District of Texas expired in May 2019. I did not renew it because, as a judge, I was no longer in private practice. I have not allowed any state bar memberships to lapse.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

Co-Author, *A Guide to the D.C. Commission on Human Rights' Adjudication Process for*

FCRSA and FCRSA-H Cases, D.C. Commission on Human Rights (2018).

Co-Author, *A Guide to the D.C. Commission on Human Rights' Adjudication Process*, D.C. Commission on Human Rights (2015).

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

August 21, 2021: Greeter, *Alumni Welcome to Incoming Students*, Georgetown Black Law Students Association Orientation Bootcamp. Notes supplied.

August 17, 2021: Tour Guide/Presenter, *George Washington University Law School Pro Bono Orientation Tour of OAH and Talk*, George Washington University Law School and D.C. Office of Administrative Hearings. Notes supplied.

July 25, 2021: Honoree, *Acceptance speech for individual award for Service in 2021 40 under 40*, National Bar Association, virtual presentation. Transcript supplied.

July 24, 2021: Graduation Speaker, *Graduation Address to the 2020 Class of the Charles Hamilton Houston Pre-Law Institute*, virtual presentation. Transcript supplied.

July 21, 2021: Panelist, *Clerkships and Careers in Law*, Georgetown University Law Center Externship I Class, Prof. Alexander B. White, virtual presentation. I have no notes, transcript, or recording.

June 30, 2021: Panelist, *Pro Bono Scholars Alumni Panel*, Akin, Gump, Strauss, Hauer & Feld LLP, presented virtually. I have no notes, transcript, or recording.

April 27, 2021: Guest Professor, *Georgetown Law Early Outreach Class Session*, Georgetown University Law Center. I have no notes, transcript, or recording.

April 23, 2021: Panelist, *Georgetown Law Alumni Panel for Admitted Students*, Georgetown University Law Center Admissions Department, presented virtually. I have no notes, transcript, or recording.

April 21, 2021: Guest Professor, *Georgetown Law Early Outreach Class Session*, Georgetown University Law Center. I have no notes, transcript, or recording.

March 27, 2021: Panelist, *Administrative and Specialty Courts*, Robert E. Wone Judicial Clerkship & Internship Conference; Asian Pacific American Bar Association Educational Fund, Asian Pacific American Bar Association of the Greater Washington, D.C. Area, Capital Area Muslim Bar Association, Hispanic Bar Association, South Asian Bar Association; presented virtually. I have no notes, transcript, or recording.

March 17, 2021: Panelist, *Pursuing Law as a Career Informal Interview*, Howard University Career Education Services Office, presented virtually. I have no notes, transcript, or recording.

November 5, 2020: Lecturer, *Local Employment Discrimination Law*, Georgetown University Law Center Employment Discrimination Class, Prof. David C. Simmons, presented virtually. PowerPoint presentation supplied.

November 17, 2020: Panelist, *Clerkships and Careers in Law*, Georgetown University Law Center Externship I Class, Prof. Alexander B. White, virtual presentation. I have no notes, transcript, or recording.

October 21, 2020: Panelist, *Clerkships and Careers in Law*, Georgetown University Law Center Externship I Class, Judge Tannisha Bell, virtual presentation. I have no notes, transcript, or recording.

August 23, 2020: Greeter, *Alumni Welcome to Incoming Students*, Georgetown Black Law Students Association Orientation Bootcamp, virtual presentation. I have no notes, transcript, or recording.

June 3, 2020: Panelist, *Pro Bono Scholars Alumni Panel*, Akin, Gump, Strauss, Hauer & Feld LLP, presented virtually. I have no notes, transcript, or recording.

March 4, 2020: Panelist, *Fireside Chat with Judges*, Georgetown Asian Pacific American Law Students Association, in person. I have no notes transcript or recording.

April 30, 2020: Panelist, *Georgetown Law Alumni Panel for Admitted Students*, Georgetown University Law Center Admissions Department, presented virtually. I have no notes, transcript, or recording.

January 29, 2020: Panelist, *Clerkships*, Georgetown University Law Center and Georgetown Black Law Students Association. I have no notes, transcript, or recording.

December 10, 2019: Panelist, *Civics, Law, and the Importance of Academics*, Randle Highlands Elementary School. I have no notes, transcript, or recording.

November 20, 2019: Panelist, *Clerkships and Careers in Law*, Georgetown University Law Center Externship I Class, Judge Tannisha Bell. I have no notes, transcript, or recording.

November 19, 2019: Panelist, *Clerkships and Careers in Law*, Georgetown University Law Center Externship I Class, Prof. Alexander B. White. I have no notes, transcript, or recording.

October 24, 2019: Lecturer, *Local Employment Discrimination Law*, Georgetown

University Law Center Employment Discrimination Class, Prof. David C. Simmons, presented virtually. PowerPoint presentation supplied.

October 5, 2019: Panelist, *Administrative and Specialty Courts*, Robert E. Wone Judicial Clerkship & Internship Conference; Asian Pacific American Bar Association Educational Fund, Asian Pacific American Bar Association of the Greater Washington, D.C. Area, Hispanic Bar Association of the District of Columbia, South Asian Bar Association, Capital Area Muslim Bar Association, UDC David A. Clarke School of Law, Kellog, Hansen, Todd, Figel & Frederick PLLC, Williams and Connolly LLP. I have no notes, transcript, or recording.

August 8, 2019: Presenter, *Why I Nominated*, 2019 Right Directions Award for Youth, D.C. Office of Attorney General. I have no notes, transcript, or recording.

April 12, 2019: Panelist, *Bill Emerson Congressional Fellow Alum Panel re Graduate School*, Congressional Hunger Center. I have no notes, transcript, or recording.

January 31, 2019: Panelist, *Opportunity Scholar Presentation*, Georgetown University Law Center Admission Office. I have no notes, transcript, or recording.

October 30, 2018: Lecturer, *Local Employment Discrimination Law*, Georgetown University Law Center Employment Discrimination Class, Prof. David C. Simmons. PowerPoint presentation supplied.

April 20, 2018: Speaker, *Law School, Law, and Judgeship*, Episcopal High School of Alexandria. I have no notes, transcript, or recording.

February 27, 2018: Panelist, *Backpacks to Briefcases*, Georgetown University Law Center Career Services Office. I have no notes, transcript, or recording.

February 8, 2018: Panelist, *Countdown to Commencement*, Georgetown University Law Center Financial Aid Office. I have no notes, transcript, or recording.

November 2, 2017: Lecturer, *Local Employment Discrimination Law*, Georgetown University Law Center Employment Discrimination Class, Prof. David C. Simmons. I have no notes, transcript, or recording.

September 30, 2017: Panelist, *Alumni Panel*, Student of Color Outreach Day, Georgetown University Law Center. I have no notes, transcript, or recording.

May 20, 2017: Co-Presenter, *Technology in the Courtroom and Beyond 2017*, Washington Bar Association Knowledge is Power Program Day CLE Presentation. PowerPoint Presentation supplied.

May 20, 2017: Co-Presenter, *Evidence and E-Discovery*, Washington Bar Association

Knowledge is Power Program Day CLE Presentation. I have no notes, transcript or recording.

February 15, 2017: Tour Guide/Speaker, *Tour and History of Howard University*, Episcopal High School of Alexandria. I have no notes, transcript, or recording.

January 31, 2017: Speaker, *Introduction of Dean Blake Morant*, American Association of Law Schools Presentation on Law School at Howard University. I have no notes, transcript, or recording.

November 2, 2016: Speaker, *Law School Admissions Information Session at Howard University*, Georgetown University Law Center Admissions Office. I have no notes, transcript, or recording.

November 1, 2016: Lecturer, *Local Employment Discrimination Law*, Georgetown University Law Center Employment Discrimination Class, Prof. David C. Simmons. I have no notes, transcript, or recording.

October 24, 2016: Speaker, *Graduate School and Legal Careers*, Introduction to Political Science Class, Prof. Michael Stewart, Jr. I have no notes, transcript, or recording.

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I served as a clerk to the Honorable Alexander Williams, Jr. of the U.S. District Court for the District of Maryland, from July through December 2010.

(2) Whether you practiced alone, and if so, the addresses and dates;

I was a solo practitioner in Houston, Texas. My office address was 1314 Texas Avenue, Suite 1515, Houston, Texas, 77002. The practice was open from May 2013 until October 2014.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Summer 2008; Summer 2009; 2011 – 2012
Akin, Gump, Strauss, Hauer & Feld LLP
2001 K Street, N.W.

Washington, D.C. 20006
Summer Associate (Summer 2008, Summer 2009)
Associate (2011 – 2012)

2012 – 2013
The Law Office of Bobbie J. Young, R.N., J.D.
6161 Savoy Dr.
Suite 1019
Houston, Texas 77036
Litigation Clerk

2014 – 2018
D.C. Commission on Human Rights
441 4th St., NW
Suite 290N
Washington, DC 20001
Administrative Law Judge

2018 – Present
D.C. Office of Administrative Hearings
441 4th St., NW
Suite 450N
Washington, D.C. 20001
Administrative Law Judge

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

After graduating from law school in 2010, I served as a law clerk to the Honorable Alexander Williams, Jr., on the U.S. District Court for the District of Maryland. My job was to research, write, discuss the law and our cases, propose rulings for my Judge's consideration, and assist in the administration of Chambers.

After clerking, I joined the Washington, D.C. Office of Akin, Gump, Strauss, Hauer & Feld LLP, working as a litigator defending companies in federal and state trial and administrative courts (2011 – 2012). I also worked on numerous pro bono matters, across local, state and federal courts and administrative agencies.

In 2012, I moved to Houston Texas and worked as a litigation clerk for the Law Office of Bobbie young, RN, JD, while waiting to take the Texas Bar Exam. Attorney Young's practice involved family law, professional license defense, and civil litigation. After receiving my Texas license, I set up a solo-practice, where I practiced civil litigation and counseled clients. I also participated in pro bono

work in church matters and in a Social Security Disability appeal.

In late 2014, I was appointed as an Administrative Law Judge (“ALJ”) with the D.C. Commission on Human Rights (“Commission”). I served as a Commission ALJ from October 2014 until May 2018. At the Commission I primarily adjudicated discrimination cases, served as a mediator, and supported the Commissioners’ public work.

In May of 2018, I joined the D.C. Office of Administrative Hearings (“OAH”) as an ALJ. OAH is the District’s administrative central panel, hearing the cases of over 50 D.C. agencies, boards, and commissions. I have served on the Licensing and Enforcement docket.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

At Akin Gump, I represented companies and associations. In my pro bono practice I represented veterans, indigent individuals, victims, and immigrants. At the firm, my primary specialties were litigation and administrative law. My pro bono practice featured administrative law, civil litigation, and immigration law.

In my solo practice my clients tended to be individuals, small businesses, and churches. I maintained my civil litigation and administrative law specialties and developed a specialty in church law.

Approximately 75% of my practice has been judicial. The litigants in those cases include District Citizens, individuals with a nexus to the District, businesses, and tens of D.C. Government Agencies. My specialty is administrative adjudication.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

At the firm (2011 – 2012), I rarely appeared in court. During my solo practice (2013 – 2014), I would appear approximately once per week.

During my time at the Commission (2014 – 2018), I appeared around once per week to every other week, with a number of procedural hearings, by phone, and full evidentiary hearings, in-person, scheduled for time spans of one afternoon to multiple days.

During the time I have been at OAH (beginning in 2018), on average, I

have appeared multiple times per week with hearings ranging from fifteen minutes to two days, always in-person prior to the pandemic.

- (2) **What percentage of these appearances was in:**
- (a) **Federal courts (including Federal courts in D.C.);**
10%
 - (b) **State courts of record (excluding D.C. courts);**
60%.
 - (c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**
5%
 - (d) **Other courts and administrative bodies.**
25%
- (3) **What percentage of your litigation has been:**
- (a) **civil;**
100%
 - (b) **criminal.**
0%
- (4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

During my career in private practice I tried four cases to judgment. Two were tried to judgment in administrative bench trials. The other two were in state trial court, both decided on motion. I served as lead or co-lead counsel.

As an adjudicator, I have issued final orders in over 1,350 cases, inclusive of decisions after evidentiary hearing, decisions on the papers, dismissals pursuant to law, dismissals pursuant to party request, summary judgment, summary adjudication, and default judgments. I have been responsible for over 1,600 cases, and have held hearings in over 400 cases.

(5) What percentage of these trials was to**(a) a jury;**

0%

(b) the court (include cases decided on motion but tabulate them separately).

100% (in private practice 50% on motion)

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

(1) *Whitney Bank v. Christian Faith Missionary Baptist Church, et al.*, 127th District Court, Harris County, Texas, Cause No. 2012-73452; *Mouton and Jones v. Christian Faith Missionary Baptist Church, et al.*, 498 S.W.3d 143 (Tex. App.—Houston 2016).

Whitney Bank filed an interpleader suit to determine the ownership of Christian Faith Missionary Baptist Church's bank accounts with the Bank. From 2013 to 2014, I represented the Church and its leadership. After the passing of a longtime pastor, a dispute arose over control between a small group of members and the Boards of Directors, Trustees, and Deacons. A church vote removed the group, which later sought to seize the Church's accounts. During the interpleader, the group asked the court to overturn the church disciplinary removal, declare them members, and invalidate the election of a new pastor. The Church filed counter-claims and a plea to the jurisdiction, arguing that a court does not have jurisdiction to review church disciplinary action or rule on a pastoral election based on the Ecclesiastical Abstention Doctrine and that the group also lacked standing to challenge the pastoral election. The trial judge denied the motion and the Church sought a *writ of mandamus*. The Court of Appeals for the First District sent the Church and the removed members to mediation, then returned the case to the trial court. The plea to the jurisdiction was renewed. The trial judge granted the motion the second time and the removed members appealed. The Court of Appeals for the First District ruled in favor of the Church and issued an opinion restating the Ecclesiastical Abstention Doctrine.

The case was litigated in the 127th District Court, Harris County, Texas, before Judge

R.K. Sandill and the Court of Appeals for the First District of Texas, heard by Justices Laura Higley, Russell Lloyd, and Rebecca Huddle.

Christian Faith General Counsel:

Bobbie Young
6161 Savoy Dr.
Suite 1019
Houston, Texas 77036
(832) 651-8044

Christian Faith Appellate Counsel:

The Hon. Janice Berg
247th District Court, Harris County (Family)
Harris County Civil Courthouse
201 Caroline
15th Floor
Houston, Texas 77002
(713) 274-1247

Counsel for Mouton & Jones:

Russell C. Ducoff
4615 Southwest Fwy
Suite 500
Houston, Texas 77027
(713) 665-8750

(2) *Rev. Roland E. Mouton, Sr. Scholarship Fund v. Mouton*, 151st District Court, Harris County, Texas, Cause No. 2013-04119.

From 2013 to 2014, I represented the Scholarship Fund in post-judgment collection to secure the return of the entity's funds which were completely taken by its late namesake's wife, Mary L. Mouton. Mrs. Mouton was a Scholarship Trustee and Director and removed the funds after a dispute with the church that created and funded the scholarship. Another attorney secured a summary judgement for theft and embezzlement. I then took over the case, conducting due diligence and all necessary court procedures to create a judgment lien and attain a writ of execution. I initiated execution with the County Constable, who had jurisdiction over the identified homestead-exempt property owned by Mrs. Mouton to be sold at court auction. The property was levied and scheduled to be sold at the May 6, 2014 auction and the judgment was satisfied during the prior week.

The case was litigated in the 151st District Court, Harris County, Texas, before Judge Mike Engelhart.

General Counsel/Scholarship Fund Trustee and Director:

Bobbie Young
6161 Savoy Dr.
Suite 1019
Houston, Texas 77036
(832) 651-8044

(3) *Canary Davis Memorial Church of the Living God, Temple #18 v. Robert Glover, et al*, 152nd District Court, Harris County, Texas, Cause No. 2014-19742; *Church of the Living God v. Williams*, Justice Court, Precinct 7, Place 2, Harris County, Texas, No. EV72C0036263

In 2014, I represented the Board of Directors of Canary Davis Memorial Church of the Living God. A group of members of the Church led by a Deacon broke with other members of the Church led by the Deacon Board Chair and the Board of Directors. The former group filed as the Church, suing the Directors and then-Pastor as individuals over control of the Church. I filed an intervention on behalf the Board. The Judge appointed a Special Master and ordered a Church election for Directors. The Board's slate of candidates won; however, the litigation continued. During the case, the Deacon leading the party that filed the case filed another matter seeking to evict one of the Church's indigent tenants in Justice of the Peace Court. The Church's Board intervened and stopped the action. The over-arching case in the 152nd District Court was dismissed by the Judge on Ecclesiastical Abstention grounds in late 2014. I counseled the Church to establish clear and updated bylaws.

The case was litigated in the 152nd Harris County District Court before Judge Robert Schaffer.

Counsel for Robert Glover:
The Hon. Daniel J. Lemkuil
106 Avondale St.
Houston, Texas 77006
(713) 993-9100

Counsel for Renee Ellison:
Bobbie Young
6161 Savoy Dr.
Suite 1019
Houston, Texas 77036
(832) 651-8044

Counsel for the Deacon Board:
Valerie Jewett
3801 Kirby Dr.
Suite 605
Houston, TX 77098

(346) 571-1578

(4) *In Re Shannon Rossum*, Houston-Bissonnet Social Security Administration Office, Cause No. [Redacted (Claimant's Social Security Number)].

I undertook this representation on a *pro bono* basis from 2013 to 2014. Ms. Rossum was a severely disabled single mother, suffering from multiple maladies, including a degenerative bone condition, uneven limbs, and severe anemia. She was adjudicated disabled by the Social Security Administration ("SSA") and began to receive benefits in early 2011. In March 2012, she was adjudicated not disabled and liable for overpayment to herself and her two children, totaling almost \$60,000. As a result, she lost her social security and all other government benefits. Our investigation revealed that in early 2011 she was the victim of a tax scam, fraudulently representing that she had income to gain a higher refund. A licensed tax preparation company resolved the issue with her taxes. We then communicated with SSA to resolve the matter and filed for adjudication. This case was heard by Judge Norman who adjudicated Ms. Rossum as disabled and restored her benefits. We then went through the informal administrative process and achieved a waiver of the alleged overpayment on the basis of the new findings.

The case was before Administrative Law Judge Thomas G. Norman, Social Security Administration Office of Disability Adjudication and Review, in Houston, Texas.

Co-Counsel for Shannon Rossum:

Bobbie Young
6161 Savoy Dr.
Suite 1019
Houston, Texas 77036
(832) 651-8044

(5) *Equity Residential Management LLC v. Herbig*, Superior Court of the District of Columbia, Landlord & Tenant Branch, Case No. 2011 LTB 31151; *In the Matter of Grasso*, Circuit Court of Montgomery County, Case No. Family Law No. 44348.

This was a *pro bono* representation from 2011 to 2012. Loretta A. Grasso sought to appeal her denial of Social Security Disability benefits. Shortly after we interviewed her, she received a summons for eviction proceedings at the D.C. Superior Court, intended for her recently deceased, long-time boyfriend, Arthur Herbig. Simultaneously, I determined that she was entitled to an inheritance, held in trust in Maryland. We intervened in the D.C. Superior Court case and negotiated a settlement to provide her with some additional time. I then identified the trust in Maryland and contacted the Guardian confirming the trust, amounts held, and seeking disbursement to satisfy the settlement, Ms. Grasso's living expenses, and to allow her to search for housing. The Guardian refused the request and we filed an emergency petition to the Montgomery County Circuit Court. At the hearing the judge on emergency duty resolved the matter and limited funds were released to Ms. Grasso for the above, later the trust was dissolved.

The cases were before the D.C. Superior Court Landlord and Tenant Branch and the Circuit Court for Montgomery County Family Division, in both instances the cases were handled by a judge on duty as part of a rotation and I do not recall the specific judge.

Co-Counsel for Loretta Grasso:

Patrick F. Jessee
757 Massachusetts Ave,
Indianapolis, IN 46204
(765) 714-3085

Counsel for Equity Residential Management LLC:

Wilton O. Nedd
Mallios, Rider & Goley, LLP
4200 Parliament Place
Suite 100
Lanham, MD 20706
(301) 459-4200

Guardian for Trust:

William D. Foote, Jr.
200 Monroe St
Rockville, MD 20850
(301) 251-5660
(301) 251-5586

- 18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

At OAH, I developed our Judicial Clerkship Pilot Program, now going into its third year, bringing the first judicial clerks to the court. The assistance of judicial clerks has proven to be a tremendous asset to our judges, who, even before the pandemic, were averaging closing over 30,000 cases a year—all with written decisions—through the work of 33 judges without clerk help.

I also served as coordinator of a project to review and update order templates used at OAH that touch the Licensing and Enforcement area—a necessity with the volume of cases the court sees. We have tens of templates that are used across the court's dockets, which had not been reviewed in years. The project's goal was to update and standardize templates; ensure sufficient templates for routine orders; and create new templates, addressing recurring issues and for new types of cases.

For approximately seven years I have taught the D.C. Human Rights Act and its adjudication in a variety of settings to members of the bar, law students, and high school students through continuing legal education, lectures, and classroom visits.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

Yes. I have served as an administrative law judge at the D.C. Commission on Human Rights (October 6, 2014 – May 11, 2018) and at the D.C. Office of Administrative Hearings (May 14, 2018 – Present). Both positions were appointed. Both jurisdictions exclusively hear civil administrative cases, mostly of a trial-type, however, both had appellate-type cases constituting a smaller percentage of the docket.

The Commission on Human Rights (“Commission”) is a quasi-independent administrative court that hears discrimination cases in the areas of employment, housing, education, and public accommodations under the District of Columbia Human Rights Act of 1977, as well as the District of Columbia Family and Medical Leave Act of 1990. The Commission additionally hears trial-type cases under the Fair Criminal Record Screening Acts and appeals under the Criminal Backgrounds for the Protection of Children Act of 2004 and the Child and Youth, Safety and Health Omnibus Amendment Act of 2004. The Commission hears cases between private parties and cases that involving District agencies as respondent.

The D.C. Office of Administrative Hearings (“OAH”) is a fully independent administrative court that performs duties akin to a general jurisdiction administrative court as the District of Columbia’s “Central Panel.” OAH hears the contested trial-type cases and appeals of over fifty different District agencies, boards, and commissions, including the: Department of Health; Office of Tax and Revenue; Department of Consumer and Regulatory Affairs; Office of Planning; District Department of Transportation; Rental Housing Commission; Metropolitan Police Department; Office of the State Superintendent of Education; D.C. Public Schools; Office of Human Rights; Office of the Secretary of State; Department of Employment Services; Department of Health Care Finance; Department of Energy and Environment; and various licensing boards, among many others. With rare exceptions every case heard by OAH involves a District agency as a party.

I have attached digital copies of the 200 opinions that are available on Westlaw; the remainder of my opinions are unpublished. However, I have made a diligent search of the court records available to me, with the exception of orders in cases that are confidential by statute, regarding a minor, or containing protected medical information.

- A. List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

No.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

\$89 – November 2, 2020, Daniel J. Lemkuil, Candidate for Judge, 334th Harris County District Court, Houston, Texas.

\$250 – July 31, 2019, Veda Rasheed, Candidate for District of Columbia Ward 7 City Council Seat.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

- 24. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

My wife practices law in the District of Columbia with the law firm McGuireWoods LLP. I would recuse myself from all matters in which my wife is counsel.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

During my time at the D.C. Commission on Human Rights, I served to support the Commission's Rules Committee, made up of voting Commissioners, which would propose rules and regulations for promulgation or amendment to the entire Commission to vote on. This was part of my job responsibilities and not in the form of advocacy for any outside group or position.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

Yes. I have served as an adjunct professor of law at Georgetown University Law Center for the past five years, and would like to continue to do so.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will address any potential conflicts of interest consistent with the District of Columbia Code of Judicial Conduct, relevant advisory opinions of the Advisory Committee on Judicial Conduct of the District of Columbia Courts, and other relevant laws, rules, and practices. I will recuse myself from any case that may arise after my arrival where I was the judge below. I will also recuse myself from any case where my wife is counsel.

No such agreements exist.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**
Yes.
2. **Are you a member of the bar of the District of Columbia?**
Yes.
3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**
Yes. I was admitted on February 6, 2012.
4. **If the answer to Question 3 is "no" --**
 - A. **Are you a professor of law in a law school in the District of Columbia?**
 - B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
 - C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
 - D. **Upon what grounds is that eligibility based?**
5. **Are you a bona fide resident of the District of Columbia?**
Yes.
6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**

Yes. From June 2020 to Present, we have lived at [REDACTED]
 [REDACTED] From February 2019 until June 2020, we lived at [REDACTED]
 [REDACTED] From November 2014 until February 2019, we lived
 at [REDACTED]

REDACTED

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

Complete copies of my Judicial Nomination Commission package are attached.

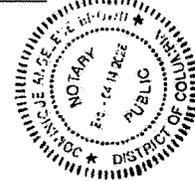
AFFIDAVIT

John P. Howard III being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

JP Howard III

SUBSCRIBED and SWORN TO before me this 13th day of October 2021.

[Signature]
Notary Public



**Senator James Lankford
Post-Hearing Questions for the Record
Submitted to John P. Howard**

Nominations of Loren L. AliKhan and John P. Howard III to be Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge, Superior Court of the District of Columbia

Thursday, December 2, 2021

1. How would you describe your judicial philosophy?

Response: Procedurally, I believe in listening with an open mind and allowing every party to be heard and present their case; keeping an open mind with my colleagues in collegially deciding cases; working in an efficient manner and responding quickly to drafts from colleagues, in service of timely justice. With regard to decision making, I believe in deciding cases on their individual specific facts and applying the law as it is. The facts of individual cases are differentiated from each other, but the law should be consistent and applied to all.

2. If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?

Response: It is the duty of judges to apply the law as it is written. It is the duty of an appellate court to explain the law and its decisions in opinion writing. In this scenario, I support the resolution of the case as dictated by the law in deciding it with my colleagues and, thereafter, I write a decision explaining the result.

The power to craft and change law is vested in the legislators accountable to the people through their votes.

3. Should judges take changing social values into consideration when interpreting the law?

Response: Judges should take into consideration the specific individual facts of each case and the law as it is written, maintaining consistency. Under our Constitution, it is the duty of the policy makers, who are elected by the people, to represent their views and social values by passing laws.

4. What role should extrinsic factors not included within the text of a statute, especially legislative history and general principles of justice, play in statutory interpretation?

Response: In general, the text of a statute is the first and best indication of what a legislative body intended. If the text is ambiguous, I would look to canons of statutory construction and persuasive precedent from other courts that had interpreted the same language. Legislative history, if used, should only be used as a last resort, while remaining mindful that the U.S. Supreme Court has urged caution and indicated some types of legislative history are more

probative than others. Further, as a practical matter, legislative history is often not readily available or complete in the District.

5. If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: Individual cases should be decided on their individual facts. Statistics across many people are not determinative of an individual, their heart, their individual actions, or the aggravating or mitigating factors in their case. D.C. Court of Appeals judges are not involved in individual sentencing and, per *Speaks v. United States*, 959 A.2d 712 (D.C. 2008), sentences within the statutory guidelines are not ordinarily reviewable, unlike in the federal appellate courts.

6. What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: As a resident of the District, I share the concerns of my fellow District citizens, and there is no type or amount of crime that is acceptable. As a judge, it is my duty to decide cases on their individual facts and faithfully apply the law. The D.C. Court of Appeals has been without a full complement of judges for over eight years at this point and, in the same time frame, has lost over half of the senior judges it relies on to assist in moving the docket. I would strive to hit the ground running and help with the heavy lifting that the judges of the Court of Appeals are faced with to provide timely justice and give finality to victims, their families, and the community as well as certainty to defendants and the public in criminal penalties.

7. What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: If I am so blessed to be confirmed, I will be coming from a court that similarly requires its judges to conclude cases with written decisions and to manage a high volume of cases. Our judges draft hundreds of decisions on average per year and our court is directly appealable to the D.C. Court of Appeals. I will strive to hit the ground running, to do the hard work to surmount the learning curve all newly confirmed judges face, and to begin helping in getting decisions out the door. I would also be the first appointee to bring the experience of being a sitting judge on administrative courts in D.C., which handle important matters for District citizens and sometimes lack guidance from the Court of Appeals.

8. At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that "congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31." Despite the Supreme Court's warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC's

statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

- a. As the District's eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

Response: As the Senator notes, important policy considerations are involved in this debate and property rights are important constitutional rights. As an administrative law judge at the D.C. Office of Administrative Hearings, I have seen that while moratoriums on evictions have been in place, enforcement against property owners for housing code violations has remained or increased, leaving them responsible for repairs and other costs.

Such cases will fall more heavily on the District of Columbia Superior Court, which will exercise its discretion in finding facts. If I am so blessed to be confirmed to the District of Columbia Court of Appeals, I will faithfully apply the law to individual facts of the case, including all applicable precedent from the D.C. Court of Appeals and the U.S. Supreme Court, bringing my experience and first-hand knowledge from administrative adjudication.

- b. Will you apply the law to the facts, or will other consideration influence your decision making?

Response: I will apply the law to the facts. Outside considerations are inappropriate, unless a judge is specifically asked to exercise such discretion by the legislature. Even more so at the Court of Appeals where judges do not sit as a finder of fact, but as arbiters of law and must give deference to the findings of fact of the courts below.

9. The Mayor has a vaccine mandate in place for all city employees. If a case came before you where an employee was required to be vaccinated under the Mayor's order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps would you take in determining whether the employee should be granted an accommodation from the mandate?

Response: Such cases may come before the D.C. Office of Administrative Hearings, where I sit, and to my specific jurisdiction. Appeals of those cases will be to the D.C. Court of Appeals. Judicial ethics requires that I not preview my views or give the appearance of pre-judging such cases.

However, with regard to the law, the Supreme Court has been clear that in reviewing sincerely held religious belief a judge should accept the belief without affirmatively questioning it, absent evidence that contradicts the sincerity of the belief. *See Employment Div., Dep't of Human Res. of Oregon v. Smith*, 494 U.S. 872, 887 (1990) ("Repeatedly and in

many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of such a religious claim.”); *Fulton v. City of Philadelphia, Pennsylvania*, 141 S. Ct. 1868, 1876 (2021) (Such belief “need not be logical, consistent or comprehensible to others to merit First Amendment protection.” (quoting *Thomas v. Review Bd. of Ind. Employment Security Div.*, 450 U.S. 707, 714 (1981))).

Further, the D.C. Human Rights Act, which is also applicable to the District Government provides employment protections on the basis of religion and requires reasonable accommodations to be made. I would apply the relevant law as I have during my seven plus years as a judge, across two courts, and as I will continue to do should I be confirmed to the D.C. Court of Appeals.

10. In 2020, D.C. imposed strict restrictions on in-person worship, prohibiting gatherings of over 100 people for purposes of worship, even if held outdoors. Capitol Hill Baptist Church applied for a waiver from the City’s prohibition. That waiver application was denied despite the fact that other outdoor activities – parks, farmers markets, tennis courts – had no limits.

Are there identifiable limits to what restrictions government may place on houses of worship compared to private businesses? In other words, may a government impose restrictions on businesses that can not be applied to houses of worship?

Response: The Supreme Court has made clear in its rulings, including during the current pandemic, that when a government treats private business more favorably than religion, such law or action is not neutral under the *Smith* standard and must face strict scrutiny. *Fulton*, 141 S. Ct. at 1877 (“A law also lacks general applicability if it prohibits religious conduct, while permitting secular conduct that undermines the government’s asserted interest in a similar way.”); see, e.g., *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 524-28, 44-45 (1993); *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (*per curiam*) (citing *Roman Catholic Diocese v. Cuomo*, 141 S. Ct. 63, 67-68 (2020) (*per curiam*), both applying the standard to pandemic restrictions).

That is, the government must prove that it has a compelling government interest and that the law or action is as narrowly tailored as possible to avoid burden on religious activity—the same standard codified in the Religious Freedom Restoration Act of 1993, which the District of Columbia is subject to. See 42 U.S.C. § 2000bb-1(b).

11. In *Bostock v. Clayton County, GA*, the Supreme Court held that “an employer who fires an individual merely for being gay or transgender” violates Title VII’s prohibition on discrimination on the basis of sex.
- a. Is it your belief that the interpretation of the definition of sex in Title VII as decided under *Bostock* also applies to other areas of civil rights law, such as Title IX and the Fair Housing Act?

Response: The ruling in *Bostock* was limited to Title VII and is specific to its language. To my knowledge, as of this date there has been no action by the Court or Congress to explicitly extend it beyond Title VII.

The District of Columbia is governed by its Human Rights Act of 1977, which covers the areas of employment, housing, public accommodations, and education. It includes personal appearance, gender identity, and sexual orientation, among other categories such as political affiliation and family responsibility in its protections.

- b. What is the implication for religious organizations – are they free to act consistently with their beliefs in the public square?

Response: The courts take guidance from analysis of federal law in applying the D.C. Human Rights Act. The United States Constitution is superior to any act and Supreme Court precedent interpreting it is applicable to D.C.

The Supreme Court has made clear in *Fulton*, *Hobby Lobby*, and other cases that constitutional protections exist for religious organizations based on their sincerely held beliefs. The Supreme Court has also recognized the ministerial exception to Title VII whereby the government cannot intrude on employment decisions regarding those in ministerial roles. *See, generally, Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 561 U.S. 171 (2012); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020).

**Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to John P. Howard**

Nominations of Loren L. AliKhan and John P. Howard III to be Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge, Superior Court of the District of Columbia

Thursday, December 2, 2021

1. The First Amendment of the United States Constitution protects the free exercise of religion.

- a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: Residents of the District of Columbia enjoy the same protections of the United States Constitution that all Americans do and our courts are bound by Supreme Court precedent interpreting the Constitution. The standard stated in *Smith*, as applied in *Lukumi*, and applied during the pandemic in numerous cases, including *Tandon* and *Roman Catholic Diocese of Brooklyn* controls.

Under these precedents, a neutral law of general applicability that burdens religion is subject to rational basis scrutiny. See *Employment Div., Dep't of Human Res. of Oregon v. Smith*, 494 U.S. 872, 878-82 (1990). Conversely, “[a] law burdening religious practice that is not neutral or not of general application must undergo the most rigorous of scrutiny.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

However, D.C. is also a covered entity under the Religious Freedom Restoration Act (“RFRA”). This means that a law or government action, even if it is of general applicability, must face strict scrutiny if it substantially burdens the exercise of religion. See 42 U.S.C. § 2000bb-1. Supreme Court precedent regarding RFRA, therefore, would also be binding on the D.C. Court of Appeals. See, e.g., *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

Capitol Hill Baptist Church v. Dist. of Columbia, 496 F.Supp. 3d 284 (D.D.C. 2020), is a recent example of application of the standard by the United States District Court for the District of Columbia.

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: Please see response 1.a. Additionally, the District of Columbia is bound by the D.C. Human Rights Act of 1977, which prohibits discrimination, even by the government, in the areas of employment, housing, public accommodations, and education, on the basis of religion.

Analysis of the D.C. Human Rights Act would resemble analysis under the standard above in a scenario involving direct evidence of discrimination and would employ the *McDonnell Douglas* burden shifting framework in the case of circumstantial evidence. See *Lemmons v. Georgetown Univ. Hosp.*, 431 F. Supp. 2d 76, 86 (D.D.C. 2006) (In the absence of direct evidence, discrimination claims “under the DCHRA . . . are evaluated using the same framework as claims arising under Title VII of the Civil Rights Act of 1964.”); *Cain v. Reinoso*, 43 A.3d 302, 306 (D.C. 2012) (“In considering claims of discrimination under the DCHRA, we employ the same three-part, burden-shifting test articulated by the Supreme Court for Title VII cases in *McDonnell Douglas Corp. v. Green*.”).

Likewise, similar to the standard created by RFRA, the Human Rights Act covers the theory of adverse or disparate impact, where a facially neutral policy unduly burdens on the basis of religion. See *Estenos v. PAHO/WHO Fed. Credit Union*, 952 A.2d 878, 887 (D.C. 2008) (“We have held that under the “Effects Clause” of the DCHRA, D.C. Code § 2–1402.68, despite the absence of any intention to discriminate, practices are unlawful if they bear disproportionately on a protected class and are not independently justified for some nondiscriminatory reason.”) (internal quotations omitted).

- c. What is the standard in the District of Columbia for evaluating whether a person’s religious belief is held sincerely?

Response: The Supreme Court has held that the sincerity of a person’s religious belief is not generally to be questioned by a judge. “Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of such a religious claim.” *Smith*, 494 U.S. at 887 (citations omitted). Such belief “need not be logical, consistent or comprehensible to others to merit First Amendment protection.” *Fulton* 141 S. Ct. at 1876 (quoting *Thomas v. Review Bd. of Ind. Employment Security Div.*, 450 U.S. 707, 714 (1981)).

2. What is your understanding of the Supreme Court's holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: The Second Amendment codified a pre-existing "...individual right to possess and carry weapons in case of confrontation," for self defense or any lawful purpose. *D.C. v. Heller*, 554 U.S. 570, 592, 620, 628 (2008). "[T]he District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." *Id.* at 635.

3. Please state whether you agree or disagree with the following statement and explain why: "Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted."

Response: I agree, and the standard includes that where the legislature has provided specific definitions, those definitions control.

Opening Statement of Adrienne Noti
Nominee to be an Associate Judge on the Superior Court of the District of Columbia

Chairman Peters, Ranking Member Portman, and members of the Committee, I thank you for the opportunity to appear before you today and for considering my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I would like to thank all the members of the Judicial Nomination Commission and specifically its chair, the Honorable Emmet Sullivan, for recommending me to the White House, and to President Joseph Biden for nominating me. I also wish to recognize and thank current D.C. Superior Court Chief Judge Anita Josey-Herring, former Chief Judge Robert Morin, and former Chief Judge Lee Satterfield, who appointed me as a Magistrate Judge in 2014. I would also like to thank my current Magistrate Judge and Associate Judge colleagues for their support. And, I thank the committee staff for their work in preparing for this hearing.

Today, I am pleased to be joined by my members of my family. My husband, Adav Noti, is here supporting me today, as he has done for every day of our marriage. We are joined by our children: our daughter Lila, who is 11, and our son Emmett, who is 9. Even though it entails wearing dress clothes, they are excited to be here, and not just because they get to miss school. I am also joined by my mother, Carolyn Lockie. I owe her for all that is good in me. I am a proud native Washingtonian, and my children attend the same public elementary and public middle school that I attended. My mother raised me all alone, while working full time, without any support, and making it look easy. She instilled in me the value of education, of hard work, of respecting others, and the strength of will power. As an adult, I now see that although she made being a single-parent look easy, it most certainly was not. Her constant and ongoing sacrifices are a direct cause of my success. My whole family is a constant source of inspiration, support, and positivity, and I am grateful to them for all they do to allow me to grow and to serve the citizens of the District.

I am currently a Magistrate Judge in D.C. Superior Court where I have served since 2014. I have been honored to serve in every division of the court: Family, Criminal, Civil, Probate, and the Domestic Violence Divisions. I have presided over thousands of cases in our most high-volume courtrooms, rendered verdicts over a hundred bench trials, and explained my decisions to numerous *pro se* litigants. Throughout my time as a judicial officer, I have cherished serving my city and playing a role in the fair and efficient administration of justice for District residents.

Prior to my appointment as a judicial officer, I served the federal Office of Child Support Enforcement, where I worked to develop and implement federal child support policy and led national child support initiatives to improve access to justice. Before that, as a Managing Attorney for the D.C. Bar *Pro Bono* Program, I arranged *pro bono* representation of family law matters in D.C. Superior Court. And as a clinical law professor and director of legal clinics first at Rutgers School of Law – Newark, and then at American University’s Washington College of Law, I taught students how to zealously represent people in crisis and supervised the representation of low income clients in local courts. I also previously represented survivors of domestic violence and served as a federal law clerk for the Honorable Carol Bagley Amon of the Eastern District of New York.

My first case ever was as a law student in a clinic at Georgetown University Law Center where I had an opportunity to appear before the D.C. Superior Court. Since that first case, the D.C. Superior Court has become my second home. I am humbled by the opportunity, if confirmed, to be an Associate Judge in D.C. Superior Court and to continue to serve the District. I look forward to answering any questions you may have.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

- 1. Full name (include any former names used).**

Adrienne Jennings Noti
Adrienne Jennings Lockie

- 2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a U.S. citizen.

- 3. Current office address and telephone number.**

D.C. Superior Court
500 Indiana Avenue, NW
Washington, D.C. 20001
(202) 876-9968

- 4. Date and place of birth.**

February 23, 1974, Washington, D.C.

- 5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am married to Adav Jennings Noti, an attorney with the Campaign Legal Center:
1101 14th Street, NW #400, Washington, D.C, 20005.

- 6. Names and ages of children. List occupation and employer's name if appropriate.**

REDACTED

- 7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

Georgetown University Law Center, August 1997 – May 2000, J.D., *magna cum laude*, awarded 2000.

University of North Carolina at Chapel Hill, August 1992 – May 1996, B.A., Women's Studies and Political Science awarded 1996.

Woodrow Wilson High School, September 1989 – June 1992, High School Diploma awarded 1992.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

1998 – 2000
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, D.C. 20001
Tutor (1998 – 1999)
Research Assistant for Professor Robin West (1999 – 2000)

Summer 1999
Stephoe and Johnson
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Summer Associate

Summer 1999
National Women's Law Center
11 Dupont Circle, NW #800
Washington, D.C. 20036
Intern (on loan from Steptoe and Johnson)

1998
Legal Aid Society of D.C.
1331 H Street, NW
Washington, D.C. 20005
Intern

1996 – 1997
Super Crown Bookstore (now defunct)
Potrero Hill
San Francisco, CA
Assistant Manager

Summer 1996

Armand's Pizzeria (now defunct)
 Tenleytown
 Washington, D.C.
 Waitress

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

United States Department of Health and Human Services: Assistant Secretary's Administration for Children and Families Honor Award for Outstanding Contractor, 2012

United States Department of Health and Human Services: Assistant Secretary's Administration for Children and Families Honor Award for Interoperability, 2012

Rutgers University – Newark: Sisterhood Faculty Award, 2006

Georgetown University Law Center: *magna cum laude*, Order of the Coif, 2000

University of North Carolina at Chapel Hill: Phi Beta Kappa, 1996

Johnston's Scholarship, 1992 – 1996

Horatio Alger Association National Scholarship, 1992 – 1996

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

None.

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

D.C. Bar, 2006 – present

D.C. Superior Court
 Strategic Leadership Council, 2021 – present
 CJA Panel Selection Committee, 2018 – 2020
 Small Claims Working Group, 2020
 Debt Collection Working Group, 2020
 Landlord & Tenant Working Group, 2020

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Kehila Chadasha, 2015 – present

Friends of Friendship (Turtle) Park, Board Member, 2017 – 2019

Janney Elementary School Parent-Teacher Association, 2015 – 2016

Georgetown Law Early Learning Center Parent Advisory Committee, 2012 – 2016

To the best of my knowledge, none of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

13. **Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

New York, admitted 2001.

District of Columbia, admitted 2006.

Maryland, admitted 2007, inactive.

United States Supreme Court, admitted 2009.

I chose to take inactive status with the Maryland Bar when I stopped teaching in the Washington College of Law's clinical program as I knew that I would not be supervising students or otherwise practicing in Maryland. Otherwise, there have been no lapses in membership.

14. **Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

Author, *Encouraging Reflection on and Involving Students in the Decision to Begin Representation*, 16 CLINICAL L. REV. 357 (Spring 2010).

Author, *Multiple Families, Multiple Goals, Multiple Failures: The Need for "Limited Equalization" as a Theory of Child Support*, 32 HARV. J.L. & GENDER 109 (Winter 2009).

Author, *Salt in the Wounds: Why Attorneys Should Not Be Required to Report Child Abuse*, 36 NEW MEXICO LAW REVIEW 125 (Winter 2006).

Author, *New York's Failure to Protect All Victims of Domestic Violence*, 18 AM. J. FAM. L. 234 (Winter 2005).

During my tenure at the United States Department of Health and Human Services, Federal Office of Child Support Enforcement, I also authored the following:

Federal Interagency Reentry Council, Snapshot: Child Support (June 11, 2014).

Child Support and Parenting Time: Improving Coordination to Benefit Children (Aug. 5, 2013).

Realistic Child Support Orders for Incarcerated Parents and "Voluntary Unemployment," Imputed Income, and Modification Policies for Incarcerated NCPs Chart (June 20, 2012).

Access to Justice Innovations (June 20, 2012).

Alternatives to Incarceration, IM-12-01 (June 18, 2012).

Turners v. Rogers Guidance, AT-12-01 (June 18, 2012).

15. **Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

Address at 2006 Women's Rights Law Reporter Symposium: Women and Children Last? Feminist Perspectives on Disaster Relief and Recovery at Rutgers School of Law (March 2006), *in* 28 WOMEN'S RTS. L. REP., Winter 2007, at 49.

I have not given any other formal speeches in the last five years, but I have participated in a number of speaking engagements. I did not prepare and do not possess full written remarks for these engagements, which I list below.

September 28, 2018; October 11, 2019; October 30, 2020, October 1, 2021: Mock Trial Judge, D.C. Affordable Law Firm Mock Trial, Georgetown Law Center. I presided over a simulated trial and provided feedback to participants.

March 24, 2021; July 15, 2021: Presenter, Training for new social workers, D.C. Child and Family Services Agency. I provided a welcome and brief overview for new social

workers.

November 5, 2020: Panelist, Abuse and Neglect Bench-Bar Dialogue, D.C. Bar Family Law Community. I participated in an annual conversation between practitioners and judicial officers.

October 21, 2020: Welcome Speaker, Family Treatment Court Virtual Commencement, D.C. Superior Court. I welcomed guests and graduates to a ceremony honoring litigants who successfully completed Family Treatment Court.

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

From August 2000 to September 2001, I served as a law clerk to the Honorable Carol Bagley Amon of the United States District Court for the Eastern District of New York.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

2001 – 2002
Center for Reproductive Rights (formerly Center for Reproductive Law and Policy)
199 Water Street
New York, NY 10038
Fellowship Attorney

2002 – 2004
Safe Horizon Domestic Violence Law Project
2 Lafayette Street
New York, NY 10007
Staff Attorney

2004 – 2006
Rutgers School of Law – Newark
123 Washington Street
Newark, NJ 07102

Director and Supervising Attorney, Domestic Violence Advocacy Project
(2004 – 2006)
Visiting Professor, Women’s Rights Litigation Clinic (2004 – 2005)

2004
New York University School of Social Work
1 Washington Square North
New York, NY 10003
Adjunct Instructor

2006
Rutgers University – Newark
175 University Avenue, Hill Hall 716
Newark, NJ 07102
Adjunct Professor, Women’s Studies Department

2006 – 2010
American University College of Law
4300 Nebraska Avenue, NW
Washington, D.C. 20016
Practitioner-in-Residence, Women in the Law Clinic

2010 – 2011
D.C. Bar *Pro Bono* Program
1101 K Street, NW, Suite 200
Washington, D.C. 20005
Managing Attorney

2011 – 2013
U.S. Department of Health and Human Services, Office of Child Support
Enforcement, Contracted to Agency by CSRA (formerly Systems
Research and Applications Corporation International)
330 C Street, SW, Fifth Floor
Washington, D.C. 20201
Senior Program Advisor

2013 – 2014
U.S. Department of Health and Human Services, Office of Child Support
Enforcement
200 Independence Avenue, SW
Washington, D.C. 20201
Special Advisor to the Director, Division of Program Innovation

2013 – 2014
American University Washington College of Law

4300 Nebraska Avenue, NW
Washington, D.C. 20016
Adjunct Professor

2014 – present
D.C. Superior Court
500 Indiana Avenue, NW
Washington, D.C. 20001
Magistrate Judge

2017
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, D.C. 20001
Adjunct Professor

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

I began my legal career as a federal law clerk for Judge Carol Bagley Amon in the United States District Court for the Eastern District of New York. In addition to performing standard law clerk responsibilities, during my clerkship Judge Amon sat on the Second Circuit, so I worked on several appellate cases. Following the clerkship, I served as a legal fellow at a non-profit where I assisted practicing lawyers who litigated in federal and state trial and appellate courts. Following the fellowship, I worked as a Staff Attorney at the Safe Horizon Domestic Violence Law Project, representing low-income domestic violence victims in protection order, child custody, visitation, and neglect proceedings in New York Family Courts.

Following years of direct client representation, I became a clinical law professor. At Rutgers School of Law – Newark, I led the Women’s Rights Litigation Clinic and supervised student attorneys representing victims of domestic violence in contested restraining order hearings. I co-taught with the Child Advocacy Clinic, which focused on abuse and neglect cases. As the Director of the Domestic Violence Advocacy Project at Rutgers School of Law – Newark, I oversaw (in addition to the clinic) a program that provided legal information to *pro se* to litigants seeking restraining orders.

From June 2006 to June 2010, I was a Practitioner-in-Residence in the Women and the Law Clinic at American University Washington College of Law. I supervised student attorneys representing clients in child custody, child support, divorce, domestic violence, disability, and immigration matters. I supervised students in contested court hearings in D.C. Superior Court and in Montgomery County Circuit Court.

After teaching at American University, I joined the D.C. Bar *Pro Bono* Program where I was the lead Managing Attorney for family law. I coordinated the Advocacy and Justice Clinic, placing low-income clients with *pro bono* lawyers in housing, disability, and family law matters in D.C. Superior Court. I provided legal guidance to volunteer attorneys, recruited and trained *pro bono* counsel, and oversaw case intake.

In 2011, joined the federal Office of Child Support Enforcement as a Special Advisor to the Director. I advised senior policymakers on child support enforcement, including policies, statutes, regulations, and legislative proposals. I conducted trainings for judges, attorneys, and child support professionals nationwide. I specialized in improving access to justice for parents in the child support system and devising guidelines for using civil contempt as an enforcement mechanism.

I am currently a Magistrate Judge in D.C. Superior Court, a position I have held since 2014. From 2014 through 2016, I served in the Domestic Violence Division, where I presided over civil and criminal emergency domestic violence matters. From 2017 through 2019, I served in the Criminal Division, where I presided over a Traffic Community Court for the Second, Fifth and Sixth Metropolitan Police Districts. I presided over all aspects of these cases from arraignment (including felony arraignment) through to trial and probation. In my second year in the Criminal Division, I was the Team Lead for the group of Criminal Magistrate Judges. In 2019, I served in the Civil Division and the Probate Division where I presided over tax and mortgage foreclosure matters, small claims, debt collection cases, landlord and tenant matters, estate cases, and contested adult guardianship review hearings.

Since January 2020, I have served in the Family Court Division where I preside over child abuse and neglect matters, adoptions, child guardianships, contested custody cases, uncontested divorces, marriages, and juvenile arraignments. I am also the Presiding Judge of the Family Treatment Court (FTC). FTC is an intensive drug treatment court designed to achieve family reunification for children of select substance-abusing parents involved in the child abuse and neglect system.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

Prior to becoming a Magistrate Judge, I represented clients who were low-income or eligible for free legal services. As a clinical law professor and as an attorney at non-profit organizations, I gained significant family law court experience. At the D.C. Bar *Pro Bono* Program, I specialized in training lawyers to represent litigants with many kinds of legal issues, particularly issues of housing, disability,

and family law. At the Office of Child Support Enforcement, I worked exclusively on child support issues.

D. Describe the general nature of your litigation experience, including:

- (1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.**

I did not appear in court as a Fellowship attorney (2001). While working at Safe Horizon Domestic Violence Law Project (2002 – 2004), I regularly appeared in Manhattan Family Court. At Rutgers (2004 – 2006), I occasionally appeared in a supervisory capacity in domestic violence cases in New Jersey Courts. Similarly, as a clinical law professor at the Washington College of Law (2006 – 2010), I supervised students in D.C. Superior Court, occasionally appearing in a supervisory capacity in domestic violence, divorce, child support, custody, and abuse and neglect cases. I did not represent clients or appear in court when I worked at the federal Office of Child Support Enforcement (2011 – 2014) or at the D.C. Bar *Pro Bono* Program (2010 – 2011).

- (2) What percentage of these appearances was in:**

- (a) Federal courts (including Federal courts in D.C.);**

0 %

- (b) State courts of record (excluding D.C. courts);**

10 %

- (c) D.C. courts (Superior Court and D.C. Court of Appeals only);**

90 %

- (d) other courts and administrative bodies.**

0 %

- (3) What percentage of your litigation has been:**

- (a) civil;**

As a practicing attorney, my practice was 100 % civil.

(b) criminal.

As a practicing attorney, my practice was 0 % criminal.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

At Safe Horizon Domestic Violence Law Project, I represented approximately 40 people, some of whom I represented in contested family law hearings. I do not have records, nor do I recall specifics of the matters. As a clinical law professor, I supervised students in several contested hearings, but similarly do not recall the specific outcomes, or the number of matters that were tried, rather than settled.

(5) What percentage of these trials was to**(a) a jury;**

0 %

(b) the court (include cases decided on motion but tabulate them separately).

100 %

- 17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

I do not have records of the cases I litigated or supervised. From 2002 to 2004, when I worked at Safe Horizon Domestic Violence Law Project, I provided direct representation to individual clients in restraining order cases, typically against unrepresented parties. To my knowledge, none of these matters resulted in reported opinions. Similarly, from 2004 to 2006 and 2006 to 2010, as a clinical professor at Rutgers School of Law – Newark and American University College of Law respectively, I supervised students in family law

matters, the vast majority of which were against unrepresented parties. None resulted in reported decisions.

1. *District of Columbia v. Miracle Emergency Cowser*, 2015 CTF 014066

Ms. Cowser was charged with driving under the influence. This case was significant because Ms. Cowser faced mandatory jail time. I did not represent any party in this case. I presided over the trial in D.C. Superior Court on March 31 and April 5, 2017, finding Ms. Cowser guilty of driving under the influence. On April 13, 2017, I sentenced Ms. Cowser to 100 days of incarceration, with the execution of the sentence suspended as to all but 10 days. I ordered one year of supervised probation.

Defense

Jason Clark
Goldberg & Goldberg, PLLC
1250 Connecticut Avenue, NW, Suite 700
Washington, D.C. 20036
202-505-2766

Prosecution

Jamie Carter (formerly of Office of the Attorney General)
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530
202-252-6741

2. *District of Columbia v. Anthony Walker*, 2016 CTF 8561

Mr. Walker was charged with driving under the influence. This case was significant for several reasons. First, it demonstrated the importance of video evidence, as the introduction of the police officer's body-worn camera footage played a key role in my decision. Second, it required me to assess the significance of the defendant's refusal to sign the implied consent form and his refusal to submit a chemical sample. I did not represent any party in this case. I presided over the trial in D.C. Superior Court on February 22 and March 1, 2017, finding that evidence did not show that the defendant was appreciably less able to exercise the clear judgement necessary to handle an automobile to a degree that could be perceived or noticed, as required by *Taylor v. District of Columbia*, 49 A.3d 1259 (D.C. 2012). Interpreting Criminal Jury Instruction for D.C. Instruction 6.401, I declined to infer defendant's "consciousness of guilt" from his refusal to submit to chemical testing. On March 1, 2017, I found Mr. Walker not guilty, finding that the District had not met its burden.

Defense

Louis Kamara
503 D Street, Suite 300

Washington, D.C. 20001
202-347-0000

Prosecution

John Duvaney (formerly of Office of the Attorney, relocated)
Office of the Attorney General
441 4th Street, NW, Suite 1060 North
Washington, D.C. 20001
202-727-3500 (main)

3. *Kitrell Daniels v. Gabrielle Blount*, 2015 CPO 1833

This case involved a contested Civil Protection Order. It was significant because it demonstrated the expansiveness of the Intrafamily Offenses Act (now repealed), which provided jurisdiction where the litigants had been romantically involved with the same person. In this case, Respondent's ex-boyfriend was romantically involved with Petitioner and Respondent was involved in a custody dispute with that ex-boyfriend. I did not represent any party in this case. I presided over the trial in D.C. Superior Court on June 2, 2015 and I denied Petitioner's request for a CPO finding that Petitioner did not show by the good cause standard that Respondent had committed an intrafamily offense.

Petitioner

Mark Rollins
Rollins and Chan
419 7th Street, NW #405
Washington, D.C. 20004
202-455-5610

Respondent

Meridel Bulle-Vu
Legal Aid Society of the District of Columbia
1331 H Street, NW, Suite 350
Washington, D.C. 20005
202-628-1161

4. *District of Columbia v. Aby Lionel*, 2018 CTF 1916

Mr. Lionel was charged with one count of Leaving After Colliding – Personal Injury and Property Damage. This case was significant because it required me to resolve a novel legal question: whether under *Cherry v. District of Columbia*, 164 A.3d 992 (D.C. 2017), a delay in stopping and calling for emergency assistance met the elements of the offense. I did not represent any party in this case. I presided over the trial in D.C. Superior Court on June 1, 2019. I ruled that in personal injury cases, calling for emergency assistance must be immediate. I found the defendant guilty of the offense of leaving after colliding. I sentenced Mr. Lionel to 180 days of incarceration, with the execution of the sentence

suspended as to all on the personal injury count and 30 days of incarceration, with the execution of the sentence suspended as to all on the property damage count. I ordered nine months of unsupervised probation.

Defense

Michael Bruckheim
Bruckheim & Patel
401 E. Jefferson Street #201b
Rockville, MD 20850
240-753-8222

Prosecution

Keith Ingram (formerly of Office of the Attorney General)
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530
202-252-1900 (main)

5. *In the Matter of AH and DG*, 2017 TPR 242

The Office of the Attorney General filed a motion for termination of parental rights. This case was significant because terminating the mother's rights would end her legal role as parent and effectively terminate visitation with her two children, aged 11 and 5. I did not represent any party in this case. I presided over the trial in D.C. Superior Court on January 13, 2020, holding a contested evidentiary hearing and finding by clear and convincing evidence that the mother was an unfit parent. However, in consideration of the factors set forth in D.C. Code § 16-2353(b), I found that it was not in the children's best interests to terminate the parental relationship.

Guardian Ad Litem

Kylie Marcus
Children's Law Center
501 3rd Street, NW, 8th Floor
Washington, D.C. 20001
202-467-4900

Mother's Attorney

Jon Pascale
10057 Wood Sorrel Lane
Burke, VA 22015
703-425-2240

Prosecution

Clinton Beastron
Assistant Attorney General

200 I Street, SE 4th Floor
Washington D.C. 20003
202-727-7222

18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

Since leaving a full-time position in academia in 2014, I have remained engaged in teaching and mentoring young lawyers. In 2013 and 2014, I taught an externship seminar at American University's Washington College of Law. In 2017, I taught Professional Responsibility at Georgetown University Law Center. I also taught in the Women's Studies Department at Rutgers University and at the New York University School of Social Work. Additionally, I have made significant contributions to the legal academy, including publishing several law review articles in journals, developing new courses, presenting at the AALS Annual Clinical Legal Education conference, and teaching hundreds of students. As a clinical law professor, I routinely trained new lawyers in local non-profit organizations and trained new teaching fellows on clinical pedagogy. I also have supervised dozens of law students in contested court hearings in several jurisdictions.

I have specialized in providing assistance to *pro se* litigants and improving access to justice for such litigants. In 2004, as the Director of the Domestic Violence Advocacy Project at Rutgers School of Law – Newark, I oversaw a program that provided legal information to *pro se* litigants and provided “know your rights” presentations at domestic violence shelters. While at the D.C. Bar *Pro Bono* Program, in addition to supervising *pro bono* attorneys, I served as primary staff for the D.C. Bar Family Law Task Force. I helped shape a collaborative, limited-scope representation project and developed interactive online court forms. I also staffed a monthly Advice and Referral Clinic, held at Bread for the City.

In each of my assignments as a Magistrate Judge, I have been actively involved in division-wide improvements and training. I have prepared extensive domestic violence training materials and reference materials for distribution to Associate, Senior, and Magistrate Judges and have led numerous judicial training sessions. I have also trained many incoming Magistrate Judges, orienting them to their new responsibilities and providing guidance on managing a high-volume courtroom. As an active member of the Court community, I participate in Court committee work, such as reviewing candidates for the CJA panel and in the Strategic Planning Leadership Council, a major undertaking. I participate in working groups with outside stakeholders. For instance, as the Presiding Judge of the Family Treatment Court, I lead collaboration with a number of citywide and community partners.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

Since October 2014, I have served as a Magistrate Judge in D.C. Superior Court. This is an appointed position. Superior Court is the trial court of general jurisdiction for the District of Columbia. Magistrate Judges are authorized to hear specific matters in all divisions. Magistrate Judges are not authorized to handle jury trials, criminal felonies, or civil matters where the amount in controversy is over \$10,000. *See e.g.*, D.C. Code 11-1732 and 11-1732A.

All of my opinions are “unreported” decisions that appear as part of the court record in the Court’s database. I have searched my files for copies of the substantive orders that I have issued in each of my assignments, such as in Criminal, Domestic Violence, Landlord & Tenant, Debt Collection, Small Claims, and Probate Divisions. I have provided the copies requested, where possible. Additionally, I have issued about 20 substantive decisions regarding adoption/abuse and neglect. I have provided the copies requested, where possible. As those matters are confidential by law, I have replaced the parents’ and childrens’ names in these opinions with pseudonyms.

A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

To my knowledge, I have only been reversed in one matter: *Sukkasem v. Oluboyede*, 2018 SC3 008309. I presided over a *pro se* small claims trial on May 24, 2019 and entered judgment of \$1,200 in favor of Ms. Sukkasem. Both parties filed a motion for review before an Associate Judge. The Court granted Mr. Oluboyede’s motion for review in one respect – it related to the amount of damages, remanding for the judgment to be reduced by \$200.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

No.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None.

- **List all memberships and offices held in and services rendered to any political party**

or election committee during the last ten (10) years.

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

- 1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

I am currently employed by D.C. Superior Court as a Magistrate Judge, so my employer would not change if I were confirmed as an Associate Judge in D.C. Superior Court. I have no business ties to sever.

- 2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

- 3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

- 4. Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

- 5. Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

- 6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No, although I would consider continuing to teach as an adjunct professor at local law schools.

- 7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

If confirmed, I would handle any matter presenting actual or potential conflicts of interest by applying the Code of Judicial Conduct and any other relevant ethical canons and rules.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section I I - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**
Yes.
2. **Are you a member of the bar of the District of Columbia?**
Yes.
3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**
Yes, I was admitted to practice in the District in 2006.
4. **If the answer to Question 3 is "no" --**
 - A. **Are you a professor of law in a law school in the District of Columbia?**
 - B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
 - C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
 - D. **Upon what grounds is that eligibility based?**
5. **Are you a bona fide resident of the District of Columbia?**
Yes.
6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**
Yes, since July of 2015, I have resided at [REDACTED]
[REDACTED] **REDACTED**
7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

Copies of my District of Columbia Judicial Nomination commission questionnaire are attached.

AFFIDAVIT

Adrienne Noti being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Adrienne Noti

SUBSCRIBED and SWORN TO before me this 12 day of October 2021.




Notary Public

**Senator James Lankford
Post-Hearing Questions for the Record
Submitted to Adrienne Jennings Noti**

Nominations of Loren L. AliKhan and John P. Howard III to be Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge, Superior Court of the District of Columbia

Thursday, December 2, 2021

1. How would you describe your judicial philosophy?

My judicial philosophy is to give every litigant a fair and full opportunity to be heard, to listen carefully to the evidence presented, to ask good questions, to apply the law to the facts, and to clearly explain my decisions.

2. If you are presented with a case, and the law clearly indicates that you should reach a particular result, but you conclude that result would be profoundly unjust. What do you do?

As a judicial officer, I always apply the law to the facts without regard to any personal views on the outcome. I would continue to do so if confirmed.

3. Should judges take changing social values into consideration when interpreting the law?

No.

4. What role should extrinsic factors not included within the text of a statute, especially legislative history and general principles of justice, play in statutory interpretation?

The text is the key factor for statutory interpretation, and the plain meaning of the language is dispositive. In all the matters that I have handled as a Magistrate Judge, I have never considered factors other than the text of the statute and the plain meaning of the text.

5. If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

I would never allow a defendant's race to influence my sentencing decision. The sentencing of individual defendants is a fact-specific inquiry driven only by the nature and circumstance of the particular crime and the individual defendant. If confirmed, I would sentence criminal defendants after careful consideration of the evidence, the pre-sentence report, and the sentencing guidelines.

6. What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

The most significant criminal issue is the backlog of criminal cases. I can participate in addressing the backlog by working as a team player with my colleagues on the D.C. Superior Court, running an efficient courtroom, and continuing to adjudicate individual matters swiftly. As a Magistrate Judge, I served in the Criminal Division for two years, and I would bring this expertise to the D.C. Superior Court, if fortunate enough to be confirmed.

7. What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

The key way that I can serve D.C. is by continuing to play a role in the fair and efficient in administration of justice. Having served in every division of D.C. Superior Court, I believe that I would be an asset to D.C. Superior Court and am prepared to serve the residents of the District.

8. At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that "congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31." Despite the Supreme Court's warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC's statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

- a. As the District's eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

I will apply the law to the facts for every landlord and tenant in each individual case that comes before me. I have faithfully applied the law when previously presiding over thousands of cases in the Landlord and Tenant Branch.

- b. Will you apply the law to the facts, or will other consideration influence your decision making?

I will apply the law to the facts without any other considerations.

9. The Mayor has a vaccine mandate in place for all city employees. If a case came before you where an employee was required to be vaccinated under the Mayor's order but doing so would violate their sincerely held religious belief and that employee requested and was denied a reasonable accommodation, how would you approach such a case? What steps

would you take in determining whether the employee should be granted an accommodation from the mandate?

If called upon to evaluate a claim of this nature, I would apply the existing precedent of the United States Supreme Court and the D.C. Court of Appeals, and any other applicable laws. D.C. is a covered entity for purposes of the Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. §§ 2000bb *et seq.*, so I would apply that statute and Supreme Court precedents interpreting RFRA, as well as other relevant precedents. As needed, I would also be mindful of the Supreme Court’s precedents in *Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993), *Tandon v. Newsom*, 114 S. Ct. 1294 (2021), and others.

10. In 2020, D.C. imposed strict restrictions on in-person worship, prohibiting gatherings of over 100 people for purposes of worship, even if held outdoors. Capitol Hill Baptist Church applied for a waiver from the City’s prohibition. That waiver application was denied despite the fact that other outdoor activities – parks, farmers markets, tennis courts – had no limits.

Are there identifiable limits to what restrictions government may place on houses of worship compared to private businesses? In other words, may a government impose restrictions on businesses that can not be applied to houses of worship?

See Response to 9. The government may not treat secular activities more favorably than non-secular ones. See *Tandon v. Newsom*, 114 S. Ct. 1294 (2021).

11. You spent a year working as a fellow at the Center for Reproductive Rights, in your questionnaire you wrote “I served as a legal fellow at a non-profit where I assisted practicing lawyers who litigated in federal and state trial and appellate courts.” Please full describe the nature of your work.

- a. On what specific cases did you assist practicing lawyers?

In 2001 - 2002, I spent one year as a legal fellow. During that time, I assisted the more senior lawyers by researching specific legal issues as directed. I did not enter an appearance in any cases and do not recall the specific cases for which I conducted legal research.

- b. For what specific issue did you assist and/or advocate?

See Response to 11(a). The only specific legal issue that I recall researching is state funding for abortions in which the mother’s health was significantly endangered.

**Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to Adrienne Jennings Noti**

Nominations of Loren L. AliKhan and John P. Howard III to be Associate Judges, District of Columbia Court of Appeals, and Adrienne Jennings Noti to be an Associate Judge, Superior Court of the District of Columbia

Thursday, December 2, 2021

1. The First Amendment of the United States Constitution protects the free exercise of religion.

- a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

D.C. is a covered entity for purposes of the Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. §§ 2000bb *et seq.* Therefore, if plaintiffs brought a case alleging that a facially neutral D.C. governmental action substantially burdened their free exercise of religion, that case would be evaluated under RFRA and precedents applying RFRA. To the extent that the question asks about governmental action by states (not D.C.), those laws are evaluated under Supreme Court precedents related to the Free Exercise Clause. Under those precedents, a law that burdens religious practice that is not neutral or not of general applicability is subject to strict scrutiny. *See Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993). *Tandon v. Newsom* further clarified that regulations are not neutral and generally applicable when they treat secular activities more favorably than non-secular activities, and therefore trigger strict scrutiny. 114 S. Ct. 1294 (2021). I would apply these cases, and any other binding precedent, if faced with a question regarding the free exercise of religion.

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

See Response to 1(a) above.

- c. What is the standard in the District of Columbia for evaluating whether a person’s religious belief is held sincerely?

I have not had occasion to litigate or adjudicate this type of claim, and I would research this question thoroughly should a case involving it come before me.

2. What is your understanding of the Supreme Court’s holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

I understand the holding in *Heller* to be that the Second Amendment of the United States Constitution protects an individual right to possess a firearm for lawful purposes.

3. Please state whether you agree or disagree with the following statement and explain why: “Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted.”

I agree. The text is the key factor for statutory interpretation, and the meaning of the language is dispositive.

4. You indicated on your questionnaire that you authored Adrienne Jennings Lockie, *Encouraging Reflection on and Involving Students in the Decision to Begin Representation*, 16 Clin. L. Rev. 357 (2010).

- a. In this article, you wrote that as a clinical instructor, you encouraged students to consider “social justice” when determining what clients to represent. What do you understand the phrase “social justice” to mean?

In this 2010 article, I used “social justice” according to the common dictionary meaning of each of those two words.

- b. In this article, you wrote that “Supervisors worry that students, if given complete autonomy over client selection, will not select cases or clients that fit within the supervisors’ own goals for social reform, or within the supervisors’ substantive areas of interest or expertise.” Do you think it is appropriate for attorneys to choose clients based on their own conceptions of social justice?

Attorneys who choose clients must do so consistent with an attorney’s ethical obligations under the D.C. Rules of Professional Conduct.

- c. Do you believe it is appropriate for judges to consider or promote social justice?

Judicial officers must act consistent with the law and their ethical obligations under the D.C. Code of Judicial Conduct, which would generally bar consideration or promotion of any non-legal factors in adjudication. In my seven years as a Magistrate Judge on the D.C. Superior Court, in every

case that has come before me, I have focused on the facts of the case and the relevant precedent that applied to it.

- d. Have you ever promoted or endorsed critical race theory?

No.

- e. Do you believe that America is systemically racist?

I have no view on this question. My role as a judicial officer is to adjudicate legal claims, and if called upon to adjudicate a claim of racial discrimination, I would follow existing U.S. Supreme Court precedent, D.C. Court of Appeals precedent, and D.C. law.

5. You indicated on your questionnaire that you authored Adrienne Jennings Lockie, *Multiple Families, Multiple Goals, Multiple Failures: The Need for "Limited Equalization" As A Theory of Child Support*, 32 *Harv. J.L. & Gender* 109 (2009).

- a. In this article, you criticized child support laws as being based on a model that "assumes financially secure, heterosexual, married, cohabitating couple." You also advocated for "an explicit policy decision about supporting multiple families in favor of existing families" and "allocating resources across families more equitably." What did you mean by this?

This article, written more than a decade ago in my capacity as an advocate, provided suggestions to child support policymakers. Since 2014, I have served as a Magistrate Judge on D.C. Superior Court and so in my current role—and if confirmed to serve as a Judge on the D.C. Superior Court—I will faithfully apply the D.C. Child Guidelines, D.C. Code § 16-916.01 *et seq.*

- b. Do you believe the government has a legitimate role in promoting policies that encourage traditional two-parent families?

To my knowledge, none of the D.C. statutes that regulate families (*e.g.*, D.C. Code § 16-914 *et seq.*; D.C. Code § 16-916.01 *et seq.*; D.C. Code § 16-2310 *et seq.*; D.C. Code § 16-2341 *et seq.*; and, D.C. Code § 16-2351 *et seq.*) direct judges to promote "traditional two-parent families." If confirmed, I will faithfully apply each of these laws, and all laws regarding parenting, if called upon to resolve legal disputes concerning families.

- c. Do you believe that men may become pregnant?

I have no medical or biological training, but to my knowledge, a person who is genetically male does not have the ability to become pregnant.

- d. Do you believe that an individual's sex or gender is a subjective choice or an objective fact that can be determined by reference to objective evidence?

I have not occasion to adjudicate any claims involving this issue, and I would study existing precedent and all applicable laws before resolving any claims of this nature.

- 6. You indicated on your questionnaire that you authored Adrienne Jennings Lockie, *Salt in the Wounds: Why Attorneys Should Not Be Mandated Reporters of Child Abuse*, 36 N.M.L. Rev. 125 (2006).

- a. In this article, you advocated against requiring attorneys to report child abuse to authorities, even when they know such abuse is occurring. Why do you think attorneys should not be required to report credible allegations of sexual or physical abuse of children?

This 2006 article explored possible conflicts between mandatory child abuse reporting (by attorneys) and the professional obligations of attorneys under New Jersey law, and offered suggestions of ways to resolve that conflict.

- b. Have you ever failed to report credible allegations that a child was being sexually or physically abused?

No.

- 7. In the course of considering your candidacy for this position, has anyone at the White House or Department of Defense asked for you to provide your views on:

- a. Systemic racism?

No.

- b. Critical race theory?

No.

- c. Critical race studies?

No.

- d. Transgender issues?

No.

- 8. Please describe your understanding of the duty of candor, if any, that nominees have to state their views on their judicial philosophy and be forthcoming when testifying before

the Senate Homeland Security and Governmental Affairs Committee. *See* U.S. Const. art. II, § 2, cl. 2.

Each answer that I have provided to the Committee in my confirmation hearing and in the answers above has been fully candid and truthful, consistent with my oath.